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(*b*) the expenses incurred by the District Board in paying compensation to the owner of any private ferry for the partial or complete loss of income from such ferry, and in recouping itself for the partial or complete loss of receipts in respect of any public ferry referred to in clause (*4*) of section 52, when such loss results in either case from the construction of such bridge, or the construction or widening of such road-way or foot-way,

(*c*) interest on such expenses, at the rate of four *per centum per annum*, and

(*d*) the capitalised value of the estimated cost to the District Board of maintaining such bridge, road-way or foot-way, and of renewing it, if it requires periodical renewal;

(*2*) no toll-bar shall be established, or tolls levied, on or in respect of any bridge, road-way or foot-way, the cost or estimated cost of which, as indicated in clauses (*a*), (*b*) and (*d*) of proviso (*1*), was or is less than ten thousand rupees.

Lease of toll-bar.

"86B. The District Board may grant a lease, for any period not exceeding three years, of any toll-bar established under section 86A of this Act.

Procedure where two District Boards have contributed towards cost of bridge, etc.

"86C. When the District Boards of two adjacent districts, having jointly constructed, purchased or contributed towards the cost of the construction or widening of a bridge, road-way or foot-way, have received sanction under section 86A of this Act to the establishment of a toll-bar, the tolls shall be levied or granted in lease by such District Board as the Lieutenant-Governor may, in his order according sanction, direct; and the proceeds of such tolls, or of the lease thereof, shall be adjusted between the two District Boards according to rules made in this behalf by the Lieutenant-Governor.

Exemptions.

"86D. (*1*) The following persons and things shall be exempted from payment of tolls at any toll-bar established under section 86A of this Act, namely:—

(*a*) Government stores, and persons in charge thereof;

(*b*) police-officers and other public officers travelling on duty, District Board officers so travelling, persons in the custody of any of the officers aforesaid, property belonging to or in the custody of any of the officers aforesaid, and vehicles and animals employed by any of the officers aforesaid for the transport of such persons or property;

(*c*) conservancy carts and other vehicles and animals belonging to the District Board, and persons in charge thereof; and

(*d*) any other class of persons or things which may be exempted by order of the District Board.

(*2*) In granting a lease of any toll-bar, the District Board may stipulate that any servants and property of the District Board and any other persons and things shall be exempted from payment of tolls thereat.

Rates of tolls.

"86E. (*1*) When it has been determined that tolls shall be levied at any toll-bar established under section 86A of this Act, the District Board shall make and publish an order specifying the rates at which the tolls shall be levied.

(*2*) Such rates shall be subject to the sanction of the Commissioner, and may from time to time be varied with the like sanction.

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"86F. (*1*) A table of such tolls, legibly printed or written in the vernacular of the district, shall be hung up in some conspicuous position near every such toll-bar, so as to be easily readable by all persons required to pay the tolls.

Table of tolls to be hung up.

(*2*) In default of compliance with sub-section (*1*) of this section, the toll-collector, or the lessee of the toll-bar, as the case may be, shall be liable to fine which may extend to fifty rupees, and to a further fine which may extend to ten rupees for each day after the first during which the default continues.

"86G. The District Board, or the lessee of any toll-bar, may compound with any person for a certain sum to be paid by such person for himself, or for any vehicles or animals kept by him, in lieu of the rates specified under section 86E of this Act.

Power to compound for tolls.

"86H. Any toll-collector or lessee of a toll-bar established under section 86A of this Act may refuse to allow any person to pass through the toll-bar until the proper toll has been paid.

Power of toll-collector or lessee in case of refusal to pay toll.

"86J. Whoever, having rendered himself liable to the payment of toll, refuses to pay the toll, shall be liable to fine which may extend to fifty rupees.

Penalty for refusing to pay toll.

"86K. If resistance is offered to any person authorized under this Chapter to collect tolls, any Police-officer whom he may call to his aid shall be bound to assist him; and such Police-officer shall, for that purpose, have the same powers as he has in the exercise of his ordinary police duties.

Police-officers to assist.

"86L. If any person authorized under this Chapter to collect tolls demands or takes any higher tolls than the tolls authorized under this Chapter, he shall be liable to fine which may extend to fifty rupees, and, in default of payment, to imprisonment for a term which may extend to one month.

Penalty for taking unauthorized tolls.

"86M. (*1*) When a toll-bar has been established and tolls have been levied, under section 86A of this Act, in respect of any bridge, road-way or foot-way, the District Board shall, at the end of each financial year, publish, by causing to be posted up at their office, an abstract account showing—

District Board to publish expenses, etc., of toll-bars.

(*a*) the amount of the expenses incurred by the District Board in constructing, purchasing, contributing to or widening the bridge, road-way or foot-way;

(*b*) the amount of the expenses incurred by the District Board in paying compensation to the owner of any private ferry for the partial or complete loss of income from such ferry, and in recouping itself for the partial or complete loss of receipts in respect of any public ferry referred to in clause (*4*) of section 52, when such loss results in either case from the construction of such bridge, or the construction or widening of such road-way or foot-way;

(*c*) the amount of interest which has accrued due on such expenses;

(*d*) the capitalised value of the estimated cost to the District Board of maintaining the bridge, road-way or foot-way, and of renewing it, if it requires periodical renewal; and

(*e*) the amount which has been received from the profits of the said toll-bar since its establishment.

(*2*) As soon as such expenses, interest, and capitalised value have been recovered as aforesaid, such toll-bar shall be removed, and tolls shall no longer be levied in respect of such bridge, road-way or foot-way."

New section 88A.

**44.** After section 88 of the said Act, the following shall be inserted, namely:—

"88A. A District Board may, with the sanction of the Lieutenant-Governor, contribute such annual or other sum as may be agreed upon towards the cost of—

Power to contribute towards cost of municipal water-supply.

(*a*) the construction, repair and maintenance, under the provisions of Bengal Municipal Act, 1884, of water-works, wells or tanks within the district, or

Ben. Act III of 1884.

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(*b*) taking measures under the said Act for the prevention of plague in the district:

Provided that no application for such sanction shall be made unless it is authorized by a resolution which has been passed at a meeting specially convened for the purpose and in favour of which a majority of not less than two-thirds of the total number of members of the District Board have voted."

New section 91.

**45.** For section 91 of the Bengal Local Self-Government Act of 1885, the following shall be substituted, namely :— Ben. Act III of 1885.

"91. (*1*) Every District Board shall appoint, to be members of a Sanitation Committee, not more than five nor less than three members of the Board.

Constitution and functions of Sanitation Committees, and appointment of Sanitary Inspector.

(*2*) The Civil Surgeon of the district shall be a member *ex-officio* of the Sanitation Committee of his district.

(*3*) It shall be the duty of a Sanitation Committee, subject to the control of the District Board and to any rules made by the Lieutenant-Governor under section 138, to initiate and supervise works connected with the sanitation of the district, and to exercise such of the powers of the District Board as may be delegated to it in accordance with such rules.

(*4*) The District Board shall also appoint a properly qualified person to be its Sanitary Inspector, and, subject to the provisions of section 33, fix the salary of such Sanitary Inspector and the details of the establishment subordinate to him.

(*5*) The Lieutenant-Governor may, for reasons which may to him appear to be sufficient, exempt any District Board, wholly or partially, from the operation of this section."

Amendment of section 99.

**46.** (*1*) In the heading over section 99 of the said Act, for the word "Relief" the words "and Distress" shall be substituted.

(*2*) In the said section, after the word "famine" the words "or serious distress" shall be inserted.

(*3*) To the said section the following shall be added, namely :—

"(*4*) distribute such gratuitous relief, in the form of doles of money or food, as may be necessary."

New section 99A.

**47.** After section 99 of the said Act the following shall be inserted, namely :—

"99A. It shall be lawful for a District Board, with the sanction of the Commissioner, to incur expenditure on any local irrigation work which may appear to it to be necessary for the purpose of preventing, or mitigating the effects of, famine or scarcity within its district:

Irrigation works for relief of famine or scarcity.

Provided that no such expenditure shall be incurred, unless such irrigation work has been sanctioned by the Lieutenant-Governor as a relief work in accordance with rules made under this Act."

Amendment of section 100.

**48.** (*1*) In section 100 of the said Act, for the words "subject to any rules made by the Lieutenant-Governor," the words "subject to such rules and restrictions as the Lieutenant-Governor may, from time to time, prescribe" shall be substituted.

(*2*) In clause (*3*) of the said section, for the word "its," the word "the" shall be substituted.

(*3*) After the said clause (*3*) the following shall be inserted, namely :—

"(*3a*) establish and maintain veterinary dispensaries for the reception and treatment of horses, cattle and other animals, and charge such fees for the use of such dispensaries as may from time to time be approved by the Commissioner;

Veterinary Dispensaries.

(*3b*) appoint and pay qualified persons to prevent and treat diseases of horses, cattle and other animals;

Treatment of diseases of animals.

(*3c*) provide for the improvement of the breed of horses, cattle or asses, and for the breeding of mules;

Breeding of animals.

(*3d*) make grants in aid of measures for improving agriculture or for carrrying out any of the objects specified in clause (*3a*) or clause (*3c*), and."

Grants in aid of agricultural and veterinary improvements.

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Amendment of section 104.

**49.** In section 104 of the said Act, for the words "Local Board," in both places in which they occur, the words "District Board" shall be substituted.

Amendment of sections 105 to 107.

**50.** (*1*) In sections 105, 106 and 107 of the said Act, for the words "Local Board," wherever they occur, the words "District Board" shall be substituted.

(*2*) In the said section 105, for the words "an estimate of the probable expenditure of the Committee," the words "an estimate of the probable receipts and expenditure of the Committee under each head of account" shall be substituted.

(*3*) To the said section 105 the following shall be added, namely:—

"Every estimate submitted under this section shall be subject to the sanction of the District Board, who may, before sanctioning any estimate, modify it as they may think fit."

(*4*) In the said section 107, after the words "village roads," the words "and bridges thereon" shall be inserted.

Amendment of sections 108 and 109.

**51.** (*1*) After the words "village-roads," in section 108 of the said Act, and where they first occur in section 109 thereof, the words "and bridges thereon" shall be inserted.

(*2*) In the said section 108, after the words "such roads" the words "and bridges" shall be inserted.

(*3*) After the word "road," in clauses (*c*) and (*d*) of the said section 109, the words "or bridge thereon" shall be inserted.

Amendment of section 110.

**52.** In section 110 of the said Act,—

(*a*) for the words "Local Board," in the first and third places in which they occur, the words "District Board" shall be substituted; and

(*b*) for the words "Local Board," in the second place in which they occur, the words "District Board or of a Local Board" shall be substituted.

New section 111.

**53.** For section 111 of the said Act the following shall be substituted, namely:—

"111. Every Union Committee shall perform such functions as may be transferred to it by notification under section 31 of the Cattle-trespass Act, 1871."

Pounds.

1 of 1871.

New section 114.

**54.** For section 114 of the said Bengal Local Self-Government Act of 1885, the following shall be substituted, namely:—

Ben. Act III of 1885.

"114. A Union Committee shall, if required to do so by the Magistrate of the district, provide for the registration of births and deaths within the Union, and shall submit such returns thereof as the said Magistrate may direct."

Registration of births and deaths.

New sections 115 to 119.

**55.** For sections 115 to 119 of the said Act the following shall be substituted, namely:—

"115. Every Union Committee shall, subject to the control of the District Board, and in accordance with rules made by the Lieutenant-Governor under this Act,—

Duties of Union Committee as to sanitation, conservancy and drainage.

(*1*) provide, as far as possible, for the sanitation and conservancy of the Union and the prevention of public nuisances therein;

(*2*) make special arrangements for the sanitation and conservancy of fairs and *mélas* held within the Union;

(*3*) have control of all drains and other conservancy works within the Union which are not under the control of any other authority; and

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(*4*) execute all works which are necessary for improving the sanitation, conservancy or drainage of the Union :

Provided that the District Board may itself undertake any such work which, by reason of its magnitude, or of the amount of expense likely to be incurred thereon, cannot, in the opinion of the District Board, be satisfactorily executed by the Union Committee.

Powers of Union Committee as to sanitation, conservancy and drainage.

"116 (*1*) If it appears to the Union Committee that, for any reason, it is necessary to improve the sanitary condition of any village or part of a village within the Union, the Committee may, in accordance with a scheme approved by the District Board and sanctioned by the Commissioner under rules made by the Lieutenant-Governor under this Act,—

(*a*) cause huts or privies to be removed, either wholly or in part ;

(*b*) cause private drains to be constructed, altered or removed ;

(*c*) cause streets, passages and public drains to be constructed or widened ;

(*d*) cause tanks or low lands to be filled up or deepened ; and

(*e*) cause such other improvements to be made as, in its opinion, are necessary to improve the condition of such village or part.

(*2*) The Union Committee may, by written notice,—

(*i*) require the owner or occupier of any hut, or the owner of any privy, to remove such hut or privy, either wholly or in part, in pursuance of clause (*a*) of sub-section (*1*) ; or

(*ii*) require the owner or occupier of any building to construct private drains therefor, or to alter or remove private drains thereof, in pursuance of clause (*b*) of sub-section (*1*),

within a period to be specified in the notice.

(*3*) If any work required by and such notice is not executed within the period specified in the notice, the Union Committee may themselves cause such work to be carried out.

(*4*) All expenses incurred by the Union Committee under sub-section (*1*) or sub-section (*3*), including such reasonable compensation as the Committee may think fit to pay to the owners or occupiers of huts or privies removed, shall be met out of the Union Fund.

Cleansing of villages.

"117. (*1*) The Union Committee may, with the sanction of the District Board, employ a special establishment for the cleansing of any village within the Union.

(*2*) If any village for which no establishment is maintained under sub-section (*1*) appears to the Union Committee to be in a filthy condition, the Committee may, by written notice, require the persons who occupy buildings in the village to cleanse their holdings, to the satisfaction of the Committee, within a period to to be specified in the notice.

(*3*) If any person on whom notice has been served under sub-section (*2*) fails to comply with the requisition contained in the notice, the Union Committee shall,

unless reasonable cause to the contrary is shown, cause his holding to be cleansed, and

recover from such person such portion of the costs of such cleansing as may be approved by the Sanitation Committee, as if the same were an arrear of the assessment imposed under the Village-chaukidari Act, 1870, or, where the Chota Nagpur Rural Police Act, 1887, is in force, under that Act.

Ben. Act VI of 1870.
Ben. Act V of 1887.

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"118. (*1*) The Union Committee may, subject to rules made by the Lieutenant-Governor under this Act, by written order,—

Power of Union Committee to control building, and penalties for disobedience.

(*a*) direct, in accordance with a scheme approved by the District Board and sanctioned by the Commissioner, in respect of any village, that no building which it is proposed to erect in such village, and no addition to any existing building therein, shall be placed in advance of an alignment to be prescribed by the Committee and demarcated on the ground, and

(*b*) prescribe, in accordance with the said scheme, the space which shall intervene between each new building, and between new buildings and any road in the village.

(*2*) Where any building, or any addition thereto, has been placed in contravention of an order passed by the Union Committee under sub-section (*1*), the Union Committee may apply to the District Magistrate, and such Magistrate may make an order—

(*i*) directing that the work done, or so much of the same as has been executed in contravention of the order passed under sub-section (*1*), be demolished by the owner of the building or altered by him to the satisfaction of the Committee, as the case may require, or

(*ii*) directing that the work done, or so much of the same as has been executed in contravention of the order passed under sub-section (*1*), be demolished or altered by the Union Committee at the expense of the owner:

Provided that the Magistrate shall not make any such order without giving the owner and occupier full opportunity of adducing evidence and of being heard in defence.

(*3*) If any person to whom a direction to demolish or alter any building is given under sub-section (*2*), clause (*i*), fails to obey the same, he shall be liable to fine which may extend, in the case of a masonry building, to one hundred rupees, and, in the case of any other building, to twenty rupees, and to further fine which may extend, in the case of a masonry building, to ten rupees, and, in the case of any other building, to two rupees, for each day during which he so fails after the first day.

"118A. (*1*) A Union Committee may provide the Union, or any part thereof, with a supply of water proper and sufficient for public and private purposes; and, for the purposes of this section, may—

Water supply.

(*a*) construct, repair and maintain tanks or wells, clear out streams or water-courses, and do any other necessary acts;

(*b*) with the sanction of the District Board, purchase or acquire by lease any tank, well, stream or water-course, or any right to take or convey water, within or without the Union;

(*c*) with the consent of the owner thereof, utilize, cleanse or repair any tank, well, stream or water-course within the Union, or provide facilities for obtaining water therefrom;

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(*d*) deal with any tank, well, pool, ditch, drain or place containing, or used for the collection of, any drainage, filth, stagnant water or matter likely to be prejudicial to health—by draining or cleansing it, or otherwise preventing it from being prejudicial to health, but not so as in any case to interfere with any private right; or

(*e*) contract with any person for a supply of water.

(*2*) When a Union Committee has, under clause (*c*), with the consent of the owner, cleansed or repaired, or provided facilities for obtaining water from, any tank, well, stream or water-course, the same shall, subject to any rights retained by the owner with the concurrence of the Committee, be reserved for drinking and culinary purposes, and shall be kept open to access by the public.

(*3*) Any tank, well, stream or water-course which a Union Committee may construct, repair or maintain under clause (*a*), or purchase or acquire by lease under clause (*b*), shall remain under the control and administration of the Union Committee; and the Committee may, by order duly published in the village or villages in which such tank, well, stream or water-course is situated, set apart the same, or, subject to the provisions of clause (*c*), any other tank, well, stream or water-course within the Union, for the supply of water for drinking and culinary purposes.

Power of entry.

"118B. The Union Committee, or any member, officer or servant thereof, may enter into or upon any building or land, with or without assistants or workmen, in order to make any inspection or execute any work for the purposes of or in pursuance of section 115, section 116, section 117, section 118 or section 118A:

Provided as follows:—

(*a*) no such entry shall be made between sunset and sunrise;

(*b*) no dwelling-house shall be so entered, unless with the consent of the occupier thereof, without giving the said occupier at least twenty-four hours' previous written notice of the intention to make such entry; and

(*c*) due regard shall always be had, so far as may be compatible with the exigencies of the purpose for which the entry is made, to the social and religious usages of the occupants of the premises entered.

Method of meeting cost of works of sanitation, drainage and conservancy of villages.

"118C. (*1*) If the income of the Union Committee from other sources is insufficient to meet the expenses incurred, or likely to be incurred, by the Committee in carrying out its duties or exercising its powers under section 115, section 116, section 117, section 118 or section 118A,

the Committee may, from time to time, impose on the owners of buildings, tanks, wells or water-courses, or the occupiers of buildings, within the Union, or in any village therein, such assessment as may be required approximately to meet the

deficiency, together with ten *per cent.* above such sum to meet the expenses of collection and losses due to non-realization of their shares from defaulters:

Provided that such assessment shall not be imposed unless—

(*i*) it is authorised by a resolution which has been passed at a meeting specially convened for the purpose and in favour of which a majority of not less than two-thirds of the members of the Union Committee have voted, and

(*ii*) it is previously sanctioned by the District Board and the Commissioner.

(*2*) The Union Committee shall appoint one of their number, or any other person, to receive and collect the saidassessment, and to grant receipts for the same and to keep the accounts thereof; and may permit the person so appointed to retain any sum, not exceeding five *per cent.* of the amount collected by him, to repay the costs of such collection.

(*3*) The provisions of sections 15 to 19, 25 to 29, 31 to 34, 46A, 46B and 63 of the Village-chaukidari Act, 1870, or, where the Chota Nagpur Rural Police Act, 1887, is in force, the provisions of sections 9, 10, 13, 15 to 18, 20, 21, 34 and 36 of that Act, shall apply to such assessment and the payment and recovery thereof: Ben. Act VI of 1870. Ben. Act V of 1887.

Provided as follows:—

(*a*) all references in any of the said sections of the Village-chaukidari Act, 1870, to a panchayat shall be construed as references to the Union Committee; Ben. Act VI of 1870.

(*b*) the references in section 46B of the said Village-chaukidari Act, 1870, to the chaukidari assessment shall be construed as references to the assessment imposed under this section; Ben. Act VI of 1870.

(*c*) all references in any of the said sections of the Chota Nagpur Rural Police Act, 1887, to the Deputy Commissioner or the District Superintendent of Police shall be construed as references to the Union Committee; Ben. Act V of 1887.

(*d*) the amount to be assessed on any one person shall not exceed five rupees *per mensem*.

(*e*) the amount assessed on any person may be made payable either in lump or periodical instalments; and

(*f*) the proceeds of the said assessment shall be credited to the Union Fund.

"118D. Any person who is aggrieved by any [order of a Union Committee— Appeals against orders, awards and assessments.

(i) directing such person to take any action with regard to his property under sub-section (*2*) of section 116, sub-section (*2*) of section 117, or sub-section (*1*) of section 118; or

(ii) awarding or refusing to award compensation to such person under sub-section (4) of section 116; or

(iii) making an assessment in respect of any property of such person in accordance with the provisions of section 118C;

may, within three months from the date of such order, appeal to a sub-committee of members of the District Board to be constituted under clause (*e*) of section 32 of this Act; and the decision of such sub-committee shall, subject to the exercise of a power of revision at the discretion of the Commissioner, be final.

Power of District Board to subordinate Union Committee to Local Board.

"119. (*1*) Notwithstanding anything in the foregoing provisions of this Act, the District Board may, by order in writing, with the sanction of the Commissioner, direct that any specified Union Committee shall act as the agent of, and shall be subject to the control of, a Local Board, instead of the District Board, either for all purposes or for the purposes specified in the order.

(*2*) Any order made under sub-section (*1*) may, with the like sanction, be revoked.

(*3*) So long as an order made under sub-section (*1*) with respect to any Local Board continues in force, the references to the District Board in the foregoing sections of this Act shall, so far as may be necessary, be read as if made to such Local Board."

Amendment of section 130.

**56.** (*1*) In the first paragraph of section 130 of the said Act,—

(*a*) after the figures "124" the figures "125" shall be inserted, and

(*b*) for the words "by the Local Board" the words and figures "by the District Board or the Local Board to which the Committee may have been declared, by an order under section 119, to be, for the purposes of this section, subordinate" shall be substituted.

(*2*) In the third paragraph of the same section, after the words "Local Board" the words "or Union Committee" shall be inserted.

Amendment of section 131.

**57.** In section 131 of the said Act, after the words "Local Board," in both places in which they occur, the words "or Union Committee" shall be inserted.

Amendment of section 132.

**58.** In section 132 of the said Act,—

(*1*) after the words "Local Board," in the first four places in which they occur, the words "or Union Committee" shall be inserted, and

(*2*) after the words "the Board," in the second place in which they occur, the words "or Committee" shall be inserted.

New section 133.

**59.** For sections 133 and 134 of the said Act the following shall be substituted, namely:—

Disputes between two or more Union Committees when to be referred to District Board or Local Board.

"133. (*1*) If a dispute arises between two or more Union Committees which are subordinate to the same District Board, or which have been declared by any order under section 119 to be, for the purposes of this section, subordinate to the same Local Board, the matter shall be referred to such District Board or Local Board, as the case may be, and the decision of the Board thereon shall be final and binding.

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(*2*) If a dispute arises between two or more Union Committees within the same district, and such Committees have not all been so declared to be subordinate to the same Local Board, the matter shall be referred to the District Board; and the decision of the District Board thereon shall be final and binding."

Amendment of section 138.

**60.** (*1*) To clause (*a*) of section 138 of the said Act the following shall be added, namely:—

"and determining the authority who shall decide disputes relating to such elections."

(*2*) In clause (*f*) of the same section, for the word "immediate" the word "intermediate" shall be substituted.

(*3*) To clause (*g*) of the same section the following shall be added, namely:—

"and declaring what circumstances shall be a disqualification for continuance of employment under that section."

(*4*) After clause (*h*) of the same section the following shall be inserted, namely:—

"(*h1*) prescribing the conditions on which a house and land may be acquired or on which land may be acquired and a house constructed, by the District Board, for the residence of the District Engineer, and the terms on which the District Engineer may be required to occupy the same;"

"(*h2*) regulating the application of the balance of the District Fund mentioned in clause (*1*) of section 52 of this Act to objects other than those mentioned in section 109 of the Cess Act, 1880, as amended by this Act." Ben. Act IX of 1880.

(*5*) After clause (*j*) of the same section the following shall be inserted, namely:—

"(*j1*) prescribing the conditions subject to which grants in aid may be made under section 63 or section 64A;

"(*j2*) regulating the provision, maintenance and management of students' hostels under section 64A;

"(*j3*) prescribing the powers and duties of Education Committees, and regulating the removal of members from office."

(*6*) To clause (*k*) of the said section 138 the following shall be added, namely:—

"the training and employment of compounders, midwives and veterinary practitioners, and the promotion of free vaccination."

(*7*) To clause (*m*) of the same section the following shall be added, namely:—

"and prescribing conditions precedent to the making of any contribution under section 79."

(*8*) After clause (*m*) of the said section 138 the following shall be inserted, namely:—

"(*m1*) prescribing, for the purposes of section 86A of this Act, the mode of ascertaining the capitalised value of the estimated cost to the District Board of maintaining bridges, road-ways or foot-ways, and of renewing any bridge, road-way or foot-way which requires periodical renewal, and the mode of determining what classes of bridges, road-ways or foot-ways require periodical renewal.

"(*m2*) prescribing, for the purposes of section 86C, the method in which the proceeds of tolls, or of the lease thereof, shall be adjusted between the District Boards of adjacent districts."

(*9*) In clause (*n*) of the said section 138, after the words "District Boards" the words "and Sanitation Committees" shall be inserted.

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(ii) awarding or refusing to award compensation to such person under sub-section (4) of section 116; or

(iii) making an assessment in respect of any property of such person in accordance with the provisions of section 118C;

may, within three months from the date of such order, appeal to a sub-committee of members of the District Board to be constituted under clause (*e*) of section 32 of this Act; and the decision of such sub-committee shall, subject to the exercise of a power of revision at the discretion of the Commissioner, be final.

"119. (*1*) Notwithstanding anything in the foregoing provisions of this Act, the District Board may, by order in writing, with the sanction of the Commissioner, direct that any specified Union Committee shall act as the agent of, and shall be subject to the control of, a Local Board, instead of the District Board, either for all purposes or for the purposes specified in the order.

Power of District Board to subordinate Union Committee to Local Board.

(*2*) Any order made under sub-section (*1*) may, with the like sanction, be revoked.

(*3*) So long as an order made under sub-section (*1*) with respect to any Local Board continues in force, the references to the District Board in the foregoing sections of this Act shall, so far as may be necessary, be read as if made to such Local Board."

Amendment of section 130.

**56.** (*1*) In the first paragraph of section 130 of the said Act,—

(*a*) after the figures "124" the figures "125" shall be inserted, and

(*b*) for the words "by the Local Board" the words and figures "by the District Board or the Local Board to which the Committee may have been declared, by an order under section 119, to be, for the purposes of this section, subordinate" shall be substituted.

(*2*) In the third paragraph of the same section, after the words "Local Board" the words "or Union Committee" shall be inserted.

Amendment of section 131.

**57.** In section 131 of the said Act, after the words "Local Board," in both places in which they occur, the words "or Union Committee" shall be inserted.

Amendment of section 132.

**58.** In section 132 of the said Act,—

(*1*) after the words "Local Board," in the first four places in which they occur, the words "or Union Committee" shall be inserted, and

(*2*) after the words "the Board," in the second place in which they occur, the words "or Committee" shall be inserted.

New section 133.

**59.** For sections 133 and 134 of the said Act the following shall be substituted, namely:—

"133. (*1*) If a dispute arises between two or more Union Committees which are subordinate to the same District Board, or which have been declared by any order under section 119 to be, for the purposes of this section, subordinate to the same Local Board, the matter shall be referred to such District Board or Local Board, as the case may be, and the decision of the Board thereon shall be final and binding.

Disputes between two or more Union Committees when to be referred to District Board or Local Board.

*The Bengal Local Self-Government (Amendment) Act, 1908.*

(*Sec. 60.*)

(*2*) If a dispute arises between two or more Union Committees within the same district, and such Committees have not all been so declared to be subordinate to the same Local Board, the matter shall be referred to the District Board; and the decision of the District Board thereon shall be final and binding."

Amendment of section 138.

**60.** (*1*) To clause (*a*) of section 138 of the said Act the following shall be added, namely:—

"and determining the authority who shall decide disputes relating to such elections."

(*2*) In clause (*f*) of the same section, for the word "immediate" the word "intermediate" shall be substituted.

(*3*) To clause (*g*) of the same section the following shall be added, namely:—

"and declaring what circumstances shall be a disqualification for continuance of employment under that section."

(*4*) After clause (*h*) of the same section the following shall be inserted, namely:—

"(*h1*) prescribing the conditions on which a house and land may be acquired or on which land may be acquired and a house constructed, by the District Board, for the residence of the District Engineer, and the terms on which the District Engineer may be required to occupy the same;"

"(*h2*) regulating the application of the balance of the District Fund mentioned in clause (*1*) of section 52 of this Act to objects other than those mentioned in section 109 of the Cess Act, 1880, as amended by this Act." Ben. Act IX of 1880.

(*5*) After clause (*j*) of the same section the following shall be inserted, namely:—

"(*j1*) prescribing the conditions subject to which grants in aid may be made under section 63 or section 64A;

"(*j2*) regulating the provision, maintenance and management of students' hostels under section 64A;

"(*j3*) prescribing the powers and duties of Education Committees, and regulating the removal of members from office."

(*6*) To clause (*k*) of the said section 138 the following shall be added, namely:—

"the training and employment of compounders, midwives and veterinary practitioners, and the promotion of free vaccination."

(*7*) To clause (*m*) of the same section the following shall be added, namely:—

"and prescribing conditions precedent to the making of any contribution under section 79."

(*8*) After clause (*m*) of the said section 138 the following shall be inserted, namely:—

"(*m1*) prescribing, for the purposes of section 86A of this Act, the mode of ascertaining the capitalised value of the estimated cost to the District Board of maintaining bridges, road-ways or foot-ways, and of renewing any bridge, road-way or foot-way which requires periodical renewal, and the mode of determining what classes of bridges, road-ways or foot-ways require periodical renewal.

"(*m2*) prescribing, for the purposes of section 86C, the method in which the proceeds of tolls, or of the lease thereof, shall be adjusted between the District Boards of adjacent districts."

(*9*) In clause (*n*) of the said section 138, after the words "District Boards" the words "and Sanitation Committees" shall be inserted.

*The Bengal Local Self-Government (Amendment) Act, 1908.*

(*Secs. 61-64.*)

(*10*) After clause (*o*) of the said section 138 the following shall be inserted, namely:—

"(*o1*) regulating the duties of District Boards in regard to the relief of famine, serious distress or scarcity."

(*11*) In clause (*p*) of the same section, after the word "animals" the following shall be inserted, namely:—

"the establishment and maintenance of veterinary dispensaries, the appointment and payment of qualified persons to prevent and treat diseases of horses, cattle and other animals, the improvement of the breed of horses, cattle or asses, and the breeding of mules, the making of grants in aid under clause (*3d*) of section 100 of this Act."

(*12*) After clause (*q*) of the same section the following shall be inserted, namely:—

"(*q1*) regulating the powers and duties of Union Committees in regard to sanitation, conservancy and drainage under sections 115 to 118C (both inclusive), and defining and prohibiting public nuisances within Unions."

(*13*) To the same section the following shall be added, namely:—

"In making any rule under clause (*q1*) of this section, the Lieutenant-Governor may provide that a breach of the same shall be punished with fine which may extend to ten rupees."

Amendment of section 139.

**61.** In section 139 of the said Act,—

(*a*) before the words "make by-laws" the words "subject to the control of the Lieutenant-Governor" shall be inserted; and

(*b*) for the words "confirmed by the Lieutenant-Governor" the words "confirmed by the Commissioner" shall be substituted.

Amendment of section 142.

**62.** In section 142 of the said Act, before the words "or Union Committee" the words "Local Board" shall be inserted.

Addition to section 144.

**63.** To section 144 of the said Act the following shall be added, namely:—

"Nothing in this section shall apply to the payment of fees to a legal practitioner for services rendered by him in his professional capacity."

Amendment of Schedule II.

**64.** In the third column of the second Schedule to the said Act, after the words "shall be credited to the District Fund of the district" the following shall be inserted, namely:—

"and shall be applicable to the following objects, and in the following order, namely:—

(*a*) the payment of any sums which the District Board may, under the Bengal Local Self-Government Act of 1885, from time to time have undertaken to pay as interest on loans raised for expenditure on any of the objects to which the District Road Fund is applicable, and the repayment of such loans; Ben. Act III of 1885.

(*b*) the payment of the percentage referred to in clause *Thirdly* of section 53 of the said Act;

*The Bengal Local Self-Government (Amendment) Act, 1908.*

(*Sec. 64.*)

(*c*) the payment of such of the salaries, pensions, gratuities, grants and percentages referred to in clause *Fourthly* of the said section as are required for members of establishments employed for improving the means of communication within the district or between the district and other districts;

(*d*) the payment of such of the expenses referred to in clause *Fifthly* of section 53 of the said Act as are incurred in improving the means of communication within the district or between the district and other districts, or in carrying out the provisions of section 79 of the said Act;

(*e*) the payment of the expenses referred to in clause *Seventhly* of section 53 of the said Act; and

(*f*) the making of investments referred to in clause *Eighthly* of the said section 53."

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DARJEELING;
*The 21st October, 1908.*

F. G. WIGLEY,
*Secretary to the Bengal Council.*

# The Calcutta Gazette.

WEDNESDAY, NOVEMBER 11, 1908.


## PART III.

## Acts of the Bengal Council.

GOVERNMENT OF BENGAL.

LEGISLATIVE DEPARTMENT.

THE following Act, passed by the Lieutenant-Governor of Bengal in Council, received the assent of His Honour on the 21st September, 1908, and, having been assented to by His Excellency the Viceroy and Governor General on the 29th October, 1908, is hereby published for general information.

### BENGAL ACT No. VI OF 1908.

### THE CHOTA NAGPUR TENANCY ACT, 1908.

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## CHAPTER III.

### TENURE-HOLDERS.

SECTION.



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*General.*



*Incidents of occupancy-right.*



*Enhancement of rent.*



*Increase of Rent in respect of Excess Area.*



*Reduction of Rent.*

SECTION.

*Bar to further enhancement or reduction of Rent.*

36. Bar to further enhancement or reduction of rent where there is no record of rights.

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SECTION.



*Execution of Decrees and Orders of the Deputy Commissioner.*

# BENGAL ACT No. VI OF 1908.

## THE CHOTA NAGPUR TENANCY ACT, 1908.

*An Act to amend and consolidate certain enactments relating to the law of Landlord and Tenant and the settlement of rents in Chota Nagpur.*

Whereas it is expedient to amend and consolidate certain enactments relating to the law of landlord and tenant and the settlement of rents in Chota Nagpur;

And whereas the sanction of the Governor General has been obtained, under section 5 of the Indian Councils Act, 1892, to the passing of this Act; 55 & 56 Vict., c. 14.

It is hereby enacted as follows:

### CHAPTER I.

#### PRELIMINARY.

Short title and extent.

1. (*1*) This Act may be called the Chota Nagpur Tenancy Act, 1908;

(*2*) It extends to the Chota Nagpur Division, except the district of Manbhum and except any area or part of an area which is constituted a municipality under the Bengal Municipal Act, 1884, and which is specified in this behalf by notification issued by the Local Government; and Ben. Act III of 1884.

(*3*) The Local Government may, by notification, extend the whole or any portion of this Act to the said district of Manbhum or to any part thereof.

Repeal.

2. (*1*) The Acts and notification specified in Schedule A are hereby repealed in the Chota Nagpur Division, except the district of Manbhum.

(*2*) When this Act is extended to the district of Manbhum or any part thereof, the Acts specified in Schedule B shall be deemed to be repealed in that district or part, as the case may be; or, if only a portion of this Act is so extended, then so much of the said Acts as is inconsistent with that portion shall be deemed to be so repealed.

Definitions.

3. In this Act, unless there is anything repugnant in the subject or context,—

(i) "agricultural year" means the year prevailing in a local area for agricultural purposes, and such year shall be deemed to commence and terminate on such dates, respectively, as the Local Government may, by notification, direct;

(ii) "Bhugut bandha mortgage" means a transfer of the interest of a tenant in his tenancy,

for the purpose of securing the payment of money advanced or to be advanced by way of loan,

upon the condition that the loan, with all interest thereon, shall be deemed to be extinguished by the profits arising from the tenancy during the period of the mortgage;

(iii) "Board" means the Board of Revenue for Bengal;

(iv) "Certificate Officer" means the Certificate Officer as defined in clause (*2*) of section 4 of the Public Demands Recovery Act, 1895; Ben. Act I of 1895.

(v) "civil jail" means the civil jail of the district, and includes any place appointed by the Local Government for the confinement of prisoners under this Act;

(*Section 3.*)

(vi) "Commissioner" and "Judicial Commissioner" mean respectively the Commissioner and Judicial Commissioner of Chota Nagpur; and include any other person specially empowered by the Local Government to discharge the functions of the Commissioner or Judicial Commissioner, as the case may be, in any particular area;

(vii) "Deputy Collector" includes an Assistant Collector and any Sub-Deputy Collector who is specially empowered by the Local Government to discharge any of the functions of a Deputy Collector under this Act;

(viii) "Deputy Commissioner," in any provision of this Act, includes—

(*a*) any Revenue-officer or Deputy Collector who is specially empowered by the Local Government to discharge any of the functions of a Deputy Commissioner under that provision; and

(*b*) any Deputy Collector to whom the Deputy Commissioner may, by general or special order, transfer any of his functions under that provision;

(ix) "enhancement" and "enchanced" do not include an increase of rent in respect of land held by a raiyat in excess of the area for which rent has previously been paid by him, or in respect of the conversion of upland, whether within or without his holding, into korkar; but include any commutation of rent payable in money into rent payable wholly or partly in kind;

(x) "estate" means land included under one entry in any of the general registers of revenue-paying lands and revenue-free lands, prepared and maintained under the law for the time being in force by the Deputy Commissioner, and includes Government khas mahals and revenue-free lands not entered in any register;

(xi) "forest-produce" includes the following, whether taken from a forest or not, that is to say:—

(*a*) wood, charcoal, caoutchouc, catechu, wood-oil, resin, natural varnish, bark, lac, mahua flowers and myrabolams,

(*b*) trees and leaves, flowers and fruits, and all other parts or produce not hereinbefore mentioned of trees,

(*c*) plants not being trees (including grass, creepers, reeds and moss), and all parts or produce of such plants,

(*d*) wild animals, and skins, tusks, horns, bones, silk, cocoons, honey and wax, and all other parts or produce of animals, and

(*e*) peat, surface-soil, rock and minerals (including iron-stone, coal, clay, sand and limestone, when taken by any person for his own use);

(xii) "holding" means a parcel or parcels of land held by a raiyat and forming the subject of a separate tenancy;

(*Section 3.*)

(xiii) "Korkar" means land, by whatever name locally known, such as bahbala, khandwat, jalsasan or ariat, which has been artificially levelled or embanked primarily for the cultivation of rice, and—

(*a*) which previously was jungle, waste or uncultivated, or was cultivated upland, or which, though previously cultivated, has become unfit for the cultivation of transplanted rice, and

(*b*) which has been prepared for cultivation by a cultivator (other than the landlord), or by his predecessor in interest (other than the landlord), with or without the consent of the landlord according as such consent is required or not by section 64;

(xiv) "landlord" means a person immediately under whom a tenant holds, and includes the Government;

(xv) "movable property" includes standing crops;

(xvi) "Mundari khunt-kattidari tenancy" means the interest of a Mundari khunt-kattidar;

(xvii) "pay", "payable" and "payment," when used with reference to rent, include "deliver," "deliverable" and "delivery;"

(xviii) "permanent tenure" means a tenure which is heritable and which is not held for a limited time;

(xix) "præedial conditions" mean conditions or services appurtenant to the occupation of land, other than the rent; and include rakumats payable by tenants to landlords, and every mahtut, mangan and madad, and every other similar demand, howsoever denominated, and whether regularly recurrent or intermittent;

(xx) "prescribed" means prescribed by the Local Government by rule made under this Act;

(xxi) "proprietor" means a person owning, whether in trust or for his own benefit, an estate or a part of an estate;

(xxii) "registered" means registered under any Act for the time being in force for the registration of documents;

(xxiii) "rent" means whatever is lawfully payable in money or kind by a tenant to his landlord on account of the use or occupation of the land held by the tenant, and includes all dues (other than personal services) which are recoverable under any enactment for the time being in force as if they were rent;

(xxiv) "resumable tenure" means a tenure which is held subject to the condition that it shall lapse to the estate of the grantor and be resumable by him or his successor in title—

(*a*) on failure of male heirs of the body of the original grantee in the male line, or

(*b*) on the happening of any definite contingency other than that referred to in sub-clause (*a*) of this clause;

(xxv) "Revenue-officer", in any provision of this Act, means any officer whom the Local Government may appoint to discharge any of the functions of a Revenue-officer under that provision;

(xxvi) "tenant" means a person who holds land under another person and is, or but for a special contract would be, liable to pay rent for that land to that person;

(xxvii) "tenure" means the interest of a tenure-holder, and includes an under-tenure, but does not include a Mundari khunt-kattidari tenancy; and

(xxviii) "village" means,—

(*a*) in any local area in which a survey has been made and a record-of-rights prepared under any enactment for the time being in force, the area included within the same exterior boundary in the

(*Sections 4—7.*)

village map finally adopted in making such survey and record, as subsequently modified by the decision (if any) of a Court of competent jurisdiction, and

(*b*) where a survey has not been made and a record-of-rights has not been prepared under any such enactment, such area as the Deputy Commissioner may, with the sanction of the Commissioner, by general or special order, declare to constitute a village.

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## CHAPTER II.

### CLASSES OF TENANTS.

Classes of tenants.

**4.** There shall be, for the purposes of this Act, the following classes of tenants, namely :—

(*1*) tenure-holders, including under-tenure-holders,

(*2*) raiyats, namely :—

(*a*) occupancy-raiyats, that is to say, raiyats having a right of occupancy in the land held by them,

(*b*) non-occupancy-raiyats, that is to say, raiyats not having such a right of occupancy, and

(*c*) raiyats having khunt-katti rights;

(*3*) under-raiyats, that is to say, tenants holding, whether immediately or mediately, under raiyats, and

(*4*) Mundari khunt-kattidars.

Meaning of "tenure-holder."

**5.** "Tenure-holder" means primarily a person who has acquired from the proprietor, or from another tenure-holder, a right to hold land for the purpose of collecting rents or bringing it under cultivation by establishing tenants on it; and includes—

(*a*) the successors in interest of persons who have acquired such a right, and

(*b*) the holders of tenures entered in any register prepared and confirmed under the Chota Nagpur Tenures Act, 1869; Ben. Act II of 1869.

but does not include a Mundari khunt-kattidar.

Meaning of "raiyat."

**6.** (*1*) "Raiyat" means primarily a person who has acquired a right to hold land for the purpose of cultivating it by himself, or by members of his family, or by hired servants, or with the aid of partners; and includes the successors in interest of persons who have acquired such a right, but does not include a Mundari khunt-kattidar.

*Explanation.*—Where a tenant of land has the right to bring it under cultivation, he shall be deemed to have acquired a right to hold it for the purpose of cultivation, notwithstanding that he uses it for the purpose of gathering the produce of it or of grazing cattle on it.

(*2*) A person shall not be deemed to be a raiyat unless he holds land either immediately under a proprietor or immediately under a tenure-holder or immediately under a Mundari khunt-kattidar.

(*3*) In determining whether a tenant is a tenure-holder or a raiyat, the Court shall have regard to—

(*a*) local custom, and

(*b*) the purpose for which the right of tenancy was originally acquired.

Meaning of "raiyat having khunt-katti-rights."

**7.** (*1*) "Raiyat having khunt-katti rights" means a raiyat in occupation of, or having any subsisting title to, land reclaimed from jungle by the original founders of the village or their descendants in the male line, when such raiyat is a member of the family which founded the village or a descendant in the male line of any member of such family:

Provided that no raiyat shall be deemed to have khunt-katti rights in any land unless he and all his predecessors in title have held such land or obtained a title thereto by virtue of inheritance from the original founders of the village.

(*2*) Nothing in this Act shall prejudicially affect the rights of any person who has lawfully acquired a title to a khunt-kattidari tenancy before the commencement of this Act.

(*Sections 8—13.*)

Meaning of "Mundari khunt-kattidar."

**8.** "Mundari khunt-kattidar" means a Mundari who has acquired a right to hold jungle land for the purpose of bringing suitable portions thereof under cultivation by himself or by male members of his family, and includes—

(*a*) the heirs male in the male line of any such Mundari, when they are in possession of such land or have any subsisting title thereto, and

(*b*) as regards any portions of such land which have remained continuously in the possession of any such Mundari and his descendants in the male line, such descendants.

## CHAPTER III.

### TENURE-HOLDERS.

Tenure-holder when not liable to enhancement of rent.

**9.** No tenure-holder who holds his tenure (otherwise than under a terminable lease) at a fixed rent which has not been changed from the time of the Permanent Settlement shall be liable to any enhancement of such rent, anything in the Bengal Decennial Settlement Regulation, 1793, section 51, or in any other law, to the contrary notwithstanding. VIII of 1793.

Certain bhuinhars not liable to enhancement of rent.

**10.** No bhuinhar whose lands are entered in any register prepared and confirmed under the Chota Nagpur Tenures Act, 1869, shall be liable to any enhancement of the rent of his tenure. Ben. Act II of 1869.

Registration of certain transfers of tenures.

**11.** (*1*) When any tenure or portion thereof is transferred by succession, inheritance, sale, gift or exchange, the transferee or his successor in title shall cause the transfer to be registered in the office of the landlord to whom the rent of the tenure or portion is payable.

(*2*) The landlord shall, in the absence of sufficient reason to the contrary, allow the registration of all such transfers.

(*3*) Whenever any such transfer is registered in the office of the landlord, he shall be entitled to levy a registration-fee of the following amount, namely:—

(*a*) when rent is payable in respect of the tenure or portion—a fee of two *per centum* on the annual rent thereof: provided that no such fee shall be less than one rupee or more than one hundred rupees, and

(*b*) when rent is not payable in respect of the tenure or portion—a fee of two rupees.

(*4*) If an application for the registration of any transfer of a tenure or portion thereof under sub-section (*1*) is not made within a period of one year from the date of the transfer, and if the registration fee authorized by sub-section (*3*) is not paid or tendered within that period, the transferee or his successor in title shall not be entitled to recover, at any time after the expiry of the said period, by suit or other proceeding, any rent which may have become due to him, as the owner of such tenure or portion, between the date of the transfer and the date of the application for registration.

(*5*) Nothing in this section shall—

(*i*) validate a transfer of any tenure or portion thereof which, by the terms upon which it is held, or by any law or local custom, is not transferable, or

(*ii*) affect the right of the landlord to resume a resumable tenure.

Procedure on refusal of landlord to allow registration of transfer of tenure.

**12.** If any landlord refuses to allow the registration of any such transfer as is mentioned in section 11, the transferee or his successor in title may make application to the Deputy Commissioner; and the Deputy Commissioner shall thereupon, after causing notice to be served on the landlord, make such inquiry as he considers necessary; and, if no sufficient grounds are shown for the refusal, shall pass an order declaring that the transfer shall be deemed to be registered.

Division of tenure or distribution of rent.

**13.** Notwithstanding anything contained in section 11 or section 12, a division of any tenure or portion thereof, or a distribution of the rent payable in respect of any tenure or portion thereof, shall not be binding on the landlord unless it is made with the express consent in writing of the landlord or of his agent if specially authorized in that behalf.

(*Sections 14—17.*)

Annulment of incumbrances on resumption of resumable tenure.

**14.** (*1*) Upon the resumption of a resumable tenure, every lien, sub-tenancy, easement or other right or interest created, without the consent or permission of the grantor or his successor in interest, by the grantee or any of his successors, on the tenure, or in limitation of his own interest therein, shall be deemed to be annulled, except the following, namely :—

(*a*) any lease of land whereupon a dwelling-house, manufactory or other permanent building has been erected, or a permanent garden, plantation, tank, canal, place of worship or burning or burying ground has been made, or wherein a mine has been sunk under lawful authority ;

(*b*) any right of a raiyat or cultivator in his holding or land, as conferred by this Act or by any local custom or usage ;

(*c*) any right to hold land occupied by a sacred grove ;

(*d*) any Mundari khunt-kattidari tenancy ; and

(*e*) any right of a headman of a village or group of villages (whether known as a manki or pradhan or manjhi or otherwise) in his office or land.

(*2*) Nothing in clause (*a*) of sub-section (*1*) shall confer on any grantee of a resumable tenure, or any of his successors, any right over minerals which he does not otherwise possess.

Saving of rights of landlord.

**15.** The mere registration of a transfer under section 11, or the mere receipt of a registration-fee thereunder, or the passing of an order by the Deputy Commissioner under section 12, shall not be deemed to imply a consent to, or permission to make, the transfer, within the meaning of section 14 ; and the landlord shall not be bound by the terms or conditions of any such transfer.

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## CHAPTER IV.

### OCCUPANCY-RAIYATS.

*General.*

Continuance of existing occupancy rights.

**16.** Every raiyat who, immediately before the commencement of this Act, has, by the operation of any enactment, or by local custom or usage or otherwise, a right of occupancy in any land, shall, when this Act comes into force, have a right of occupancy in that land notwithstanding the fact that he may not have cultivated or held the land for a period of twelve years.

Definition of "settled raiyat."

**17.** (*1*) Every person who, for a period of twelve years, whether wholly or partly before or after the commencement of this Act, has continuously held as a raiyat land situate in any village, whether under a lease or otherwise, shall be deemed to have become, on the expiration of that period, a settled raiyat of that village.

(*2*) A person shall be deemed, for the purposes of this section, to have continuously held land in a village notwithstanding that the particular land held by him has been different at different times.

(*3*) A person shall be deemed, for the purposes of this section, to have held as a raiyat any land held as a raiyat by a person whose heir he is.

(*4*) Land held by two or more co-sharers as a raiyati holding shall be deemed, for the purposes of this section, to have been held as a raiyat by each such co-sharer.

(*5*) A person shall continue to be a settled raiyat of a village as long as he holds any land as a raiyat in that village and for three years thereafter.

(*6*) If a raiyat recovers possession of land under section 71, or by suit, he shall be deemed to have continued to be a settled raiyat notwithstanding his having been out of possession more than three years.

(*Sections 18—20.*)

(7) If, in any suit or proceeding, it is proved or admitted that a person holds any land as a raiyat, it shall, as between him and the landlord under whom he holds the land, be presumed, for the purposes of this section, until the contrary is proved or admitted, that he has for twelve years continuously held that land or some part of it as a raiyat.

Bhuinhars and Mundari khunt-kattidars to be settled raiyats in certain cases.

**18** The following classes of persons shall be deemed to be settled raiyats for the purposes of this Act, in regard to the land in their villages which they cultivate as raiyats (other than their own Bhuinhari or Mundari khunt-kattidari land, and other than landlords' privileged lands as defined in section 118), and the provisions of sub-sections (3) to (6) of section 17 shall apply to such persons as if they were raiyats, namely:—

(*a*) where any land in a village, other than land known as manjhihas or bethkheta, is entered in any register prepared and confirmed under the Chota Nagpur Tenures Act, 1869,—all members of any Bhuinhari family who hold, and have for twelve years continuously held, land in such village, and Ben. Act II of 1869.

(*b*) where any village contains land not forming part of a Mundari khunt-kattidari tenancy, and an entry of Mundari khunt-kattidari tenancies or of Mundari khunt-kattidars in such village has been made in any record-of-rights as finally published under this Act or under any law in force before the commencement of this Act—all male members of any Mundari khunt-kattidari family who hold, and have for twelve years continuously held, land in such village.

Settled raiyats to have occupancy-rights.

**19.** Every person who is a settled raiyat of a village within the meaning of section 17 or section 18 shall have a right of occupancy in all land (other than landlords' privileged lands as defined in section 118) for the time being held by him as a raiyat in that village.

Effect of acquisition of occupancy-right by landlord.

**20.** (1) When the immediate landlord of an occupancy holding is a proprietor or a permanent tenure-holder, and the entire interest of the landlord and the raiyat in the holding become united in the same person by transfer, succession or otherwise, such person shall not retain a right of occupancy in the holding, but shall hold the same as a proprietor or permanent tenure-holder, as the case may be; but nothing in this sub-section shall prejudicially affect the rights of any third person.

(2) If an occupancy-right in land is transferred to a person jointly interested in the land as proprietor or permanent tenure-holder, he shall be entitled to hold the land subject to the payment to his co-proprietors or joint permanent tenure-holders of the shares of the rent which may be from time to time payable to them; and, if such transferee sub-lets the land to a third person, such third person shall be deemed to be a tenure-holder or a raiyat, as the case may be, in respect of the land.

*Illustration.*—*A*, a co-sharer landlord, purchases the occupancy holding of a raiyat *X*. *A* is entitled himself to hold the land on payment to his co-sharers of the shares of the rent payable to them in respect of the holding. *A* sub-lets the land to *Y*, who takes it for the purpose of establishing tenants on it; *Y* becomes a tenure-holder in respect of the land. Or *A* sub-lets it to *Z*, who takes it for the purpose of cultivating it himself; *Z* becomes a raiyat in respect of the land.

(3) A person interested in any estate, tenure, village or land, whether solely or jointly with others, as a temporary tenure-holder, ijaradar or farmer of rents or as a mortgagee in possession, shall not, during the period of his lease or mortgage, acquire by purchase or otherwise a right of occupancy in any land comprised in his lease or mortgage:

Provided that nothing in this sub-section shall prohibit the acquisition of occupancy-rights by any village-headman (whether known as pradhan or manjhi or otherwise) who by local custom or usage has a right to acquire the same.

*Explanation.*—A person having a right of occupancy in land does not lose it by subsequently becoming jointly interested in the land as proprietor or permanent tenure-holder, or by subsequently holding the land in ijara or farm.

(*Sections 21—27.*)

*Incidents of occupancy-right.*

Rights of occupancy-raiyat in respect of use of land.

**21.** When a raiyat has a right of occupancy in respect of any land, he may use the land—

(*a*) in any manner which is authorized by local custom or usage, or

(*b*) irrespective of any local custom or usage, in any manner which does not materially impair the value of the land or render it unfit for the purposes of the tenancy.

Protection of occupancy-raiyat from eviction except on specified grounds.

**22.** An occupancy-raiyat shall not be ejected by his landlord from his holding, except in execution of a decree for ejectment passed on the ground—

(*a*) that he has used the land comprised in his holding in a manner which is not authorized by section 21, or

(*b*) that he has broken a condition, consistent with the provisions of this Act, on breach of which he is, under the terms of a contract between himself and his landlord, liable to be ejected.

Devolution of occupancy-right on death.

**23.** If a raiyat dies intestate in respect of a right of occupancy, it shall, subject to any local custom to the contrary, descend in the same manner as other immovable property :

Provided that in any case in which, under the law of inheritance to which the raiyat is subject, his other property goes to the Crown, his right of occupancy shall be extinguished.

Obligation of occupancy-raiyat to pay rent.

**24.** An occupancy-raiyat shall pay rent for his holding at a fair and equitable rate.

*Enhancement of rent.*

Presumption that rent of occupancy-raiyat is fair and equitable.

**25.** The rent for the time being payable by an occupancy-raiyat shall be presumed to be fair and equitable until the contrary is proved.

Confirmation of rents enhanced prior to commencement of this Act.

**26.** When the rent of an occupancy-raiyat whose rent is liable to enhancement has been enhanced before the commencement of this Act, otherwise than under section 24 of the Chota Nagpur Landlord and Tenant Procedure Act, such enhanced rent shall be deemed to be lawfully payable— Ben. Act I of 1879.

(*a*) if it has been actually paid continuously for seven years before the commencement of this Act; and

(*b*) if it is not proved to be unfair and inequitable:

Provided that, where the rent lawfully payable by an occupancy-raiyat for his holding has been made an issue in any suit for arrears of rent, and the Court has arrived at a finding on that issue, the rent so found shall be deemed to be lawfully payable by the raiyat for the holding.

Methods in which rent of occupancy-raiyat may be enhanced.

**27.** (*1*) From and after the commencement of this Act,—

(*a*) in any area for which a record-of-rights has not been prepared and finally published under this Act or under any law in force before the commencement of this Act, or for which an order has not been issued under this Act or under any law in force before the commencement of this Act for the preparation of such a record, the money-rent of an occupancy-raiyat whose rent is liable to enhancement may be enhanced only by order of the Deputy Commissioner passed under section 29; and

(*Sections 28, 29.*)

(*b*) in any area for which a record-of-rights has been prepared and finally published as aforesaid, or for which an order has been issued as aforesaid for the preparation of such a record, the money-rent of an occupancy-raiyat whose rent is liable to enhancement may be enhanced only,—

(*i*) in cases referred to in section 62, section 94 or section 99, by order of the Deputy Commissioner passed under section 29, and

(*ii*) in other cases, by order of a Revenue-officer passed under Chapter XII.

(*2*) No enhancement of such rent made after the commencement of this Act in any manner other than that referred to in clause (*a*) or clause (*b*), as the case may be, whether by private contract or otherwise, shall for any reason be recognized or given effect to in any suit or proceeding in any Court.

Contents of application to Deputy Commissioner for enhancement.

**28.** (*1*) Every application to the Deputy Commissioner for the enhancement of the rent of an occupancy holding shall specify :—

(*a*) such particulars as may be prescribed regarding the area, situation, local names, quality and boundaries of the parcels of land constituting the holding ;

(*b*) the rates of rent (if any) payable by the raiyat for the different classes of land constituting the holding, and the yearly rent payable for the holding at the date of the application ;

(*c*) the rates (if any) generally prevailing in the village for corresponding classes of land ;

(*d*) the date (as nearly as it can be ascertained) when the rates of rent generally prevailing were last adjusted in the village ;

(*e*) the rates which the applicant desires to claim ; and

(*f*) the grounds on which the applicant considers that he is entitled to the enhancement claimed.

(*2*) Sections 146 to 149 shall apply to every application made under this section.

Procedure on receipt of such application.

**29.** (*1*) When any such application has been received, the Deputy Commissioner—

(*a*) shall forthwith give notice of the contents thereof to the raiyat, and

(*b*) may, if he thinks fit, order a measurement of the land, and

(*c*) may, upon consideration of all the circumstances set forth in the application, and after hearing any objection advanced by the raiyat, by order, fix such enhanced rent, or otherwise vary the rent for the said land, as to him may seem fair and reasonable :

(*Sections 30, 31.*)

Provided that no enhancement shall be ordered except on one or more of the following grounds, namely,—

(*i*) that the rate of rent paid by the raiyat is below the prevailing rate paid by occupancy-raiyats for land of similar quality and with similar advantages;

(*ii*) that there has been a rise in the average local prices of staple food-crops during the currency of the present rent;

(*iii*) that the productive powers of the land held by the raiyat have been increased by an improvement effected during the currency of the present rent, otherwise than by the agency or at the expense of the raiyat:

Provided also that no enhancement shall be ordered which is, under the circumstances of the case, unfair or inequitable:

Provided, further, that all enhancements shall be limited in the prescribed manner (if any).

(*2*) The rent as fixed or varied under sub-section (*1*) shall be payable by the said raiyat from the commencement of the agricultural year following the year in which the order is passed, and may be recovered in any suit instituted against him for arrears of rent.

(*3*) Nothing in this section shall bar the right of a raiyat to claim at any time under section 34 a reduction of the rent previously paid by him.

Power to direct gradual enhancement.

**30.** Where the Deputy Commissioner considers that the immediate enforcement of the full enhancement ordered under section 29 is likely to be attended with hardship, he may direct that the enhancement shall be gradual; that is to say, that the rent shall increase yearly by degrees, for any number of years not exceeding five, until the limit of the full enhancement has been reached.

*Increase of Rent in respect of Excess Area.*

Application for increase of rent in respect of land held in excess of the area for which rent was previously paid.

**31.** (*1*) Where land is held by an occupancy-raiyat in excess of the area for which rent has previously been paid by him, no increase shall be made to the rent payable by him except by order of a Revenue-officer passed under Chapter XII or by order of the Deputy Commissioner passed on an application made to him by the landlord.

(*2*) Every such application shall specify—

(*a*) the yearly rent payable by the raiyat at the date of the application;

(*b*) the area and description of the land for which the said rent is payable;

(*c*) the proceedings (if any) by which the said rent was fixed;

(*d*) the general rate prevailing in the village for corresponding classes of lands;

(*e*) the date (as nearly as it can be acertained) when the said general rate was last adjusted in the village;

(*f*) the area and description of the land held in excess of the area for which rent has previously been paid, and in respect of which an increase of rent is claimed; or, if the landlord is unable to indicate any particular land as being held in excess, then the area alone;

(*g*) the amount of the said increase;

(*h*) the manner in which the said increase has been, or should be, assessed; and

(*j*) any other prescribed particulars.

(*3*) If a survey and record-of-rights have been made under this Act, or under any other law in force before the commencement of this Act, in respect of any land referred to in clause (*b*) or clause (*f*) of sub-section (*2*), the "area and description" required by those clauses, respectively, shall be specified by stating the plot number, area and class of each field included in the land, as shown by such survey and record.

(*4*) Sections 146 to 149 shall apply to every application made under this section.

Procedure on receipt of such application.

**32.** (*1*) When any such application has been received, the Deputy Commissioner—

(*a*) shall forthwith give notice of the contents thereof to the raiyat; and

(*b*) shall refer to the entry (if any) relating to the tenancy in the record-of-rights prepared under this Act or any other law for the time being in force; and

(*c*) may, if he thinks fit, order a measurement of the land held by the raiyat; and

(*d*) may, upon consideration of all the circumstances set forth in the application, and after hearing any objection advanced by the raiyat and making such further inquiry as the Deputy Commissioner may think necessary, order such an increase, whether progressive or otherwise, as he may consider to be fair and reasonable:

Provided that, if the landlord proves that, at the time when the measurement on which the claim is based was made, there existed, in the estate or tenure or part thereof in which the holding is situate, a practice of measuring land before settling rents, the Deputy Commissioner may presume that the area of the holding as entered in any lease or counterpart engagement or (where there is an entry of area in a counterfoil receipt corresponding to the entry in the rent-roll) in the rent-roll relating to the holding was so entered after measurement.

Provided also that an increase of rent shall not be ordered where it would contravene any local custom or usage prohibiting an increase of rent in respect of the increase in area of a holding.

(*2*) When any increase has been so ordered, it shall be payable from the commencement of the agricultural year following that in which the order is passed, and may be recovered from the raiyat in any suit instituted against him for arrears of rent.

Savings.

**33.** Nothing in sections 31 and 32 shall prohibit a landlord from realizing—

(*a*) increased rents from a raiyat for separate parcels of land settled with him in any manner authorized by law, or

(*b*) rents on land converted from upland into korkar in accordance with local custom or usage.

*Reduction of Rent.*

Application to Deputy Commissioner for reduction of rent.

**34.** (*1*) Any occupancy-raiyat wishing to claim a reduction of the rent previously paid by him may present an application to the Deputy Commissioner to assess the rent on the land in respect of which such reduction is sought, and (if necessary) to measure the land.

(*2*) Every such application shall specify—

(*a*) the yearly rent payable by the raiyat at the date of the application;

(*b*) the area and description of the land for which the said rent is payable;

(*Sections 35, 36.*)

(*c*) the proceedings (if any) by which the said rent was fixed;

(*d*) the general rate prevailing in the village for corresponding classes of lands;

(*e*) the date (as nearly as it can be ascertained) when the said general rate was last adjusted in the village;

(*f*) the amount of reduction claimed;

(*g*) the grounds on which such reduction is claimed; and

(*h*) any other prescribed particulars.

(*3*) Sections 146 to 149 shall apply to every application made under this section.

Procedure on receipt of such application.

**35.** (*1*) When any such application has been received, the Deputy Commissioner—

(*a*) shall forthwith give notice of the contents thereof to the landlord; and

(*b*) may, if he thinks fit, order a measurement of the land; and

(*c*) may, upon consideration of all the circumstances set forth in the application, and after hearing any objection advanced by the landlord, by order, fix such reduced rent, or otherwise vary the rent for the said land, as to him may seem fair and reasonable:

Provided that no reduction shall be ordered except on one or more of the following grounds, namely,—

(*i*) that the soil of the holding has, without the fault of the raiyat, become permanently deteriorated by a deposit of sand or other specific cause, sudden or gradual;

(*ii*) that there has been a fall, not due to a temporary cause, in the average local prices of staple food-crops during the currency of the present rent;

(*iii*) that the land held by the raiyat is of less area than the area for which rent has previously been paid by him.

(*2*) The rent as so fixed or varied shall be payable by the raiyat from the commencement of the agricultural year following the year in which the order is passed, and may be recovered in any suit instituted against him for arrears of rent.

(*3*) Nothing in this section shall bar the right of the landlord to claim at any time an enhancement under section 29 of the rent of such raiyat.

*Bar to further enhancement or reduction of rent.*

Bar to further enhancement or reduction of rent where there is no record-of-rights.

**36.** (*1*) When the rent of an occupancy holding in any area referred to in clause (*a*) of section 27 has been enhanced by order of the Deputy Commissioner passed under section 29, such rent shall not again be enhanced for a period of fifteen years, except—

(*a*) by order of the Deputy Commissioner, on the ground of a landlord's improvement; or

(*b*) by order of a Revenue-officer passed under Chapter XII.

(*2*) When the rent of an occupancy holding in any such area has been reduced by order of the Deputy Commissioner under section 34, otherwise than on the ground specified in proviso (*iii*) to section 35, such rent shall not again be reduced for a period of fifteen years, except—

(*i*) by order of the Deputy Commissioner, on one of the grounds specified in provisoes (*i*) and (*iii*) to section 35, or

(*ii*) by order of a Revenue-officer passed under Chapter XII.

(*Sections 37—41.*)

## CHAPTER V.

### RAIYATS HAVING KHUNT-KATTI RIGHTS.

Incidents of tenancy of raiyat having khunt-katti rights.

**37.** The provisions of this Act relating to occupancy-raiyats shall apply also to raiyats having khunt-katti rights:

Provided as follows:—

(*a*) subject to any written contract made at the time of the commencement of his tenancy, the rent payable by a raiyat having khunt-katti rights, for land in respect of which he has such rights, shall not be enhanced if his tenancy of such land was created more than twenty years before the commencement of this Act; and

(*b*) when an order is made for the enhancement of the rent payable, by a raiyat having khunt-katti rights, for any land in respect of which he has such rights, the enhanced rent fixed by such order shall not exceed one-half of the rent payable by an occupancy-raiyat for land of a similar description and with similar advantages in the same village.

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## CHAPTER VI.

### NON-OCCUPANCY-RAIYATS.

Initial rent and lease of non-occupancy-raiyat.

**38.** Subject to any local custom or usage, a non-occupancy raiyat shall, when admitted to the occupation of land, become liable to pay such rent as may be agreed on between himself and his landlord at the time of his admision, and shall be entitled to a lease only at such rates and on such conditions as may be so agreed on.

Effect of acquisition by landlord of the right of a non-occupancy-raiyat in his holding.

**39.** The provisions of section 20 shall apply in the case of the right of a non-occupancy-raiyat in his holding, in the same way that they apply to an occupancy-right.

Conditions of enhancement of rent of non-occupancy-raiyat.

**40.** The rent of a non-occupancy-raiyat shall not be enhanced, except by registered agreement or by agreement under section 42.

Grounds on which non-occupancy-raiyat may be ejected.

**41.** A non-occupancy-raiyat shall, subject to the provisions of this Act, be liable to ejectment on one or more of the following grounds, and not otherwise, namely:—

(*a*) on the ground that he has failed to pay an arrear of rent;

(*b*) on the ground that he has used the land comprised in his holding in a manner which is not authorized by local custom or usage, or which materially impairs the value of the land or renders it unfit for the purposes of the tenancy;

(*c*) on the ground that he has broken a condition, consistent with this Act, on breach of which he is, under the terms of a contract between himself and his landlord, liable to be ejected;

(*d*) where he has been admitted to occupation of the land under a registered lease, on the ground that the term of the lease has expired;

(*e*) on the ground that he has refused to agree to pay a fair and equitable rent determined under section 42, or that the term for which he is entitled to hold at such a rent has expired.

(*Sections 42, 43*)

Conditions of ejectment on ground of refusal to agree to pay a fair and equitable rent.

**42.** (*1*) A suit for ejectment on the ground of refusal to agree to pay a fair and equitable rent shall not be instituted against a non-occupancy-raiyat, unless the landlord has tendered to the raiyat an agreement to pay the rent which he demands, and the raiyat has, within six months before the institution of the suit, refused to execute the agreement.

(*2*) A landlord desiring to tender an agreement to a raiyat under this section, may either—

(*a*) file it in the office of the Deputy Commissioner, for service on the raiyat; or

(*b*) send it to the raiyat direct, either by registered post or by any other means.

(*3*) When an agreement has been filed under clause (*a*) of sub-section (*2*), the Deputy Commissioner shall forthwith cause it to be served on the raiyat in the manner prescribed under section 264 for the service of notices.

(*4*) When an agreement has been served on a raiyat under sub-section (*3*), or when it is proved to the satisfaction of the Deputy Commissioner that an agreement has been sent to a raiyat by registered post, or, if sent to him by any other means referred to in clause (*b*) of sub-section (*2*), has duly reached him, the agreement shall, for the purposes of this section, be deemed to have been tendered.

(*5*) If a raiyat on whom an agreement has been served under sub-section (*3*), or to whom an agreement has been sent under sub-section (*2*), clause (*b*), executes it, and within one month from the date of receipt files it in the office of the Deputy Commissioner, it shall take effect from the commencement of the agricultural year next following.

(*6*) When an agreement has been executed and filed by a raiyat under sub-section (*5*), the Deputy Commissioner shall forthwith cause a notice of its being so executed and filed to be served on the landlord.

(*7*) If the raiyat does not execute the agreement and file it under sub-section (*5*), he shall be deemed, for the purposes of this section, to have refused to execute it.

(*8*) If a raiyat refuses to execute an agreement tendered to him under this section, and the landlord thereupon institutes a suit to eject him, the Deputy Commissioner shall determine what rent is fair and equitable for the holding.

(*9*) If the raiyat agrees to pay the rent so determined, he shall be entitled to remain in occupation of his holding at that rent for a term of five years from the date of the agreement, but on the expiration of that term shall be liable to ejectment on the second ground mentioned in clause (*e*) of section 41, unless he has acquired a right of occupancy.

(*10*) If the raiyat does not agree to pay the rent so determined, the Deputy Commissioner shall pass a decree for ejectment.

(*11*) In determining what rent is fair and equitable, the Deputy Commissioner shall have regard to the rents generally paid by non-occupancy-raiyats for land of a similar description and with like advantages in the same village and (if the Deputy Commissioner thinks fit) in adjoining villages.

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## CHAPTER VII.

### LANDS EXEMPTED FROM CHAPTERS IV AND VI.

Bar to acquisition of right of occupancy in, and to application of Chapter VI to, landlords' privileged lands and certain other lands.

**43.** Notwithstanding anything contained in Chapter IV, a right of occupancy shall not be acquired in, nor shall anything contained in Chapter VI apply to,—

(*a*) landlords' privileged lands referred to in clause (*a*) of section 118, when they are held by a tenant on a

registered lease for a term of years or on a lease year by year, or

(*b*) landlords' privileged lands referred to in clause (*b*) of section 118, or

(*c*) land acquired under the Land Acquisition Act, 1894, for the Government or any Local Authority or Railway Company, or land belonging to the Government within a cantonment, while such land remains the property of the Government or of any Local Authority or Railway Company. 1 of 1894.

## CHAPTER VIII.

### LEASES AND TRANSFERS OF HOLDINGS AND TENURES.

Raiyat entitled to a lease.

**44.** Every raiyat shall be entitled to receive from his landlord a lease containing the following particulars, namely :—

(*a*) the quantity and boundaries of the land comprised in his holding; and, where fields have been numbered in a Government survey, the number of each field;

(*b*) the amount of yearly rent payable for such land;

(*c*) the instalments in which the rent is to be paid;

(*d*) if the rent is payable wholly or partially in kind, the proportion or quantity of produce to be delivered, and the time and manner of delivery; and

(*e*) any special conditions of the lease.

Landlord entitled to counterpart engagement.

**45.** Whenever a landlord grants a lease to a tenant, or tenders to a tenant a lease such as he is entitled to receive, the landlord shall be entitled to receive from such tenant a counterpart engagement in conformity with the terms of the lease.

Restrictions on transfer of their rights by raiyats.

**46.** (*1*) No transfer by a raiyat of his right in his holding or any portion thereof,—

(*a*) by mortgage or lease, for any period, expressed or implied, which exceeds or might in any possible event exceed five years, or

(*b*) by sale, gift or any other contract or agreement,

shall be valid to any extent:

Provided that a raiyat may enter into a bhugut bandha mortgage of his holding or any portion thereof for any period not exceeding seven years.

(*2*) No transfer by a raiyat of his right in his holding or any portion thereof shall be binding on the landlord, unless it is made with his consent in writing.

(*3*) No transfer in contravention of sub-section (*1*) shall be registered, or shall be in any way recognised as valid by any Court, whether in the exercise of civil, criminal or revenue jurisdiction.

(*4*) At any time within three years after the expiration of the period for which a raiyat has, under this section, transferred his right in his holding or any portion thereof, the Deputy Commissioner may, in his discretion, on the application of the raiyat, put the raiyat into possession of such holding or portion in the prescribed manner.

(*5*) Nothing in this section shall affect the validity of any transfer (not otherwise invalid) of a raiyat's right in his holding or any portion thereof made *bonâ fide* before the first day of January, 1903.

Restrictions on sale of raiyats' rights under order of Court.

**47.** No decree or order shall be passed by any Court for the sale of the right of a raiyat in his holding, nor shall any such right be sold in execution of any decree or order:

Provided as follows :—

(*a*) any holding may be sold, in execution of a decree of a competent Court, to recover an arrear of rent which has accrued in respect of the holding;

(*b*) any holding may be sold, under the procedure provided by the Public Demands Recovery Act, 1895, for the recovery of a loan granted for the benefit of Ben. Act I of 1895.

(*Sections 48—50.*)

the holding under the Land Improvement Loans Act, 1883, or the Agriculturists' Loans Act, 1884, or otherwise by the Local Government; and XIX of 1883. XII of 1884.

(*c*) nothing in this section shall affect the right to execute a decree for sale of a holding passed, or the terms or conditions of any contract registered, before the first day of January, 1903.

*Explanation I.*—Where a holding is held under joint landlords, and a decree has been passed for the share of the rent due to one or more, but not all, of them, proviso (*a*) does not authorise the sale of the holding in execution of such decree.

*Explanation II.*—Proviso (*c*) does not render valid any document which is otherwise illegal or invalid, or authorise a Court to take judicial cognizance of any such document.

Restrictions on transfer and sale of Bhuinhari tenures.

48. Where any land in a village, other than land known as manjhihas or bethkheta, is entered in any register prepared and confirmed under the Chota Nagpur Tenures Act, 1869, then— Ben. Act II of 1869.

(*a*) section 46 [except sub-section (*2*) thereof] and section 47 shall apply also to all members of any Bhuinhari family holding land in such village, and to the land so held, as if they were raiyats and holdings, respectively, with the substitution of "the first day of October, 1908" for "the first day of January, 1903"; and

(*b*) if any member of any such family transfers the land so held, or any part thereof, by lease, the lessee shall not acquire a right of occupancy therein.

Transfer of occupancy-holding or Bhuinhari tenure for certain purposes.

49. (*1*) Notwithstanding anything contained in sections 46, 47 and 48, any occupancy-raiyat, or any member of a Bhuinhari family who is referred to in section 48, may, without the consent of the landlord, transfer his holding or tenure or any part thereof for any reasonable and sufficient purpose having relation to the good of the holding or tenure, or of the tenure or estate in which it is comprised.

(*2*) The expression "reasonable and sufficient purpose," as used in sub-section (*1*), includes—

(*a*) in the case of a member of a Bhuinhari family, but not in the case of an occupancy-raiyat, building purposes generally, and

(*b*) in any case, the use of the land for any charitable, religious or educational purpose, or for the purposes of manufacture or irrigation, or as building ground for any such purpose, or for access to land used or required for any such purpose.

(*3*) Every such transfer must be made by registered deed, and, before the deed is registered and the land transferred, the written consent of the Deputy Commissioner must be obtained to the terms of the deed and to the transfer.

(*4*) Before consenting to any such transfer, the Deputy Commissioner shall satisfy himself that the landlord is adequately compensated for the transfer, and, where only part of a holding or tenure is transferred, may, if he thinks fit, apportion between the transferee and the original tenant the rent payable for the holding or tenure.

Acquisition of holding by landlord for certain purposes.

50. (*1*) Notwithstanding anything contained in sections 46 and 47, the Deputy Commissioner may, on the application of the landlord of a holding,

and on being satisfied that he is desirous of acquiring the holding or any part thereof for some reasonable and sufficient purpose having relation to the good of the holding or of the tenure or estate in which it is comprised, such as the use of the land for any charitable, religious or educational purpose, or for the purpose of mining, manufacture or irrigation, or as building ground

for any such purpose or for access to land used or required for any such purpose,

and after such inquiry as the Deputy Commissioner may think necessary,

authorize the acquisition thereof by the landlord upon such conditions as the Deputy Commissioner may think fit, and require the tenant to sell his interest in the holding or part to the landlord upon such terms as may be approved by the Deputy Commissioner, including full compensation to the tenant.

(*2*) If the landlord tenders to the tenant such sum as the Deputy Commissioner has approved under sub-section (*1*) as payment for any land, and the tenant refuses to receive the same, the Deputy Commissioner may, on the landlord depositing the said sum with the Deputy Commissioner, give possession of the land to the landlord in the prescribed manner.

Tenant not liable to transferee of landlord's interest for rent paid to former landlord, without notice of the transfer.

**51.** (*1*) A tenant shall not, when his landlord's interest is transferred, be liable to the transferee for rent which became due after the transfer and was paid in good faith to the landlord whose interest was so transferred, unless the transferee has before the payment served notice of the transfer on the tenant.

(*2*) Where there is more than one tenant paying rent to the landlord whose interest is transferred, a general notice from the transferee to the tenants, published in the prescribed manner, shall be a sufficient notice for the purposes of this section.

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## CHAPTER IX.

### GENERAL PROVISIONS AS TO RENT.

*Payment of rent.*

Instalments.

**52.** Subject to any registered agreement or local custom or usage to the contrary, a money-rent payable by a tenant shall be payable in four equal instalments falling due on the last day of each quarter of the agricultural year.

Methods of payment of rent.

**53.** Payment of rent by a tenant to his landlord in respect of the land held or cultivated by the tenant may be made either—

(*a*) by tendering the rent at the mal-cutcherry for the receipt of rents or other place where the rent of such land is usually payable, or

(*b*) by remitting the amount of the rent to the landlord or his agent by postal money-order in the prescribed form.

Receipts for rent and interest thereon.

**54.** (*1*) Every tenant who makes a payment on account of rent, or interest due thereon, or both, to his landlord shall be entitled to obtain forthwith from the landlord or his agent, free of charge, a signed receipt for the same, in the prescribed form.

(*2*) The landlord or his agent shall prepare and retain a counterfoil, in the prescribed form, of the receipt.

(*3*) If any landlord or his agent, without reasonable cause, fails to grant such a receipt or to prepare and retain such a counterfoil, then, on proof thereof, the Deputy Commissioner may, in a summary proceeding, by order, impose on the landlord a fine which may extend to fifty rupees in respect of each such failure; and may, in his discretion, award to the tenant, by way of compensation, such portion of the fine as the Deputy Commissioner may think fit.

(*Sections 55, 56.*)

(*4*) If, in any suit or other proceeding under this Act or any other law, the Court or presiding officer (not being the Deputy Commissioner) finds that any landlord or agent has failed—

(*a*) to deliver to a tenant a receipt in the prescribed form, or

(*b*) to prepare and retain a counterfoil, in the prescribed form, of a receipt delivered to a tenant as aforesaid,

such Court or officer shall inform the Deputy Commissioner.

(*5*) If, in any proceeding instituted under sub-section (*3*), the Deputy Commissioner discharges any landlord, and is satisfied that the complaint or allegation of the tenant on which the proceedings were instituted is false or vexatious, the Deputy Commissioner may, in his discretion, by his order of discharge, direct the tenant to pay to the landlord such compensation, not exceeding fifty rupees, as the Deputy Commissioner may think fit.

Deposit of rent in Court of Deputy Commissioner.

**55.** In any of the following cases, namely,—

(*a*) when a tenant tenders or remits money on account of rent, and the landlord or his agent refuses to receive it or refuses to grant a receipt for it; or

(*b*) when a tenant who is bound to pay money on account of rent has reason to believe, owing to a tender having been refused or a receipt withheld on a previous occasion, that the landlord or his agent will not be willing to receive it and to grant him a receipt for it; or

(*c*) when the rent is payable to co-sharers jointly, and the tenant is unable to obtain the joint receipt of the co-sharers for the money, and no person has been empowered to receive the rent on their behalf; or

(*d*) when the tenant entertains a *bonâ fide* doubt as to who is entitled to receive the rent,

the tenant, whether a suit has been instituted against him or not, may deposit, to the credit of the landlord, the full amount which he considers to be due from him, in the Court of the Deputy Commissioner having jurisdiction to entertain a suit or application for such rent;

and such deposit shall, as far as the tenant and all persons claiming through or under him are concerned, in all respects operate as, and have the full effect of, a payment then made by the tenant of the amount deposited to the credit of the landlord.

Procedure on receipt of deposit, and payment of same.

**56.** (*1*) On the written application of the tenant or his agent, and on his making a declaration in the prescribed form, the Deputy Commissioner shall receive such deposit and give a receipt for the sum deposited.

(*2*) The Deputy Commissioner shall, as soon as possible after the receipt of any money so deposited, issue a notice, in the prescribed form, to the landlord to whose credit it has been deposited.

(*3*) If any person claiming to be entitled to receive the money in deposit appears and applies for payment thereof to him, the Deputy Commissioner may pay the amount to him if he appears to be entitled to the same, or may, if the Deputy Commissioner thinks fit, retain the amount pending a decision by a Civil Court declaring what person is so entitled.

(*Sections 57—61.*)

(*4*) Any sum deposited as aforesaid may, in the absence of any order of a Civil Court to the contrary, be repaid to the depositor—

(*a*) at the discretion of the Deputy Commissioner, and after serving notice on the landlord and giving him an opportunity to object, and for reasons to be recorded in writing,—at any time within a period of three years from the date on which the deposit was made, or

(*b*) upon the application of the depositor—at any time after the expiration of the said period.

Limitation of suit or application for rent due prior to deposit.

**57.** Whenever any deposit has been received by the Deputy Commissioner, no suit shall be maintained, and no application for a certificate under section 244 shall be entertained, against the person making the deposit, or his representatives, on account of any rent which accrued due prior to the date of the deposit, unless such suit be instituted or such application be made within six months from the date of the service of the notice issued under section 56 in respect of such deposit.

## *Arrears of Rent.*

What to be deemed arrear of rent; interest on arrears.

**58.** (*1*) Any instalment of rent which is not paid before sunset on the day when the same is payable shall be deemed an arrear of rent, and, shall be liable to simple interest not exceeding twelve-and-a-half *per centum per annum*:

Provided that, where a tenant pays his rent in full within the agricultural year in which it accrues due, interest shall not exceed six-and-a-quarter *per centum* on the yearly rent lawfully payable.

(*2*) Sub-section (*1*) shall not apply to dues which are recoverable under the Cess Act, 1880, as if they were rent. Ben. Act IX 1880.

Ejectment of tenure-holder and cancellation of lease for arrears.

**59.** When an arrear of rent is adjudged to be due from a tenure-holder not having a permanent or transferable interest in the land, the lease of such tenure-holder shall be liable to be cancelled and the tenure-holder shall be liable to ejectment:

Provided that no such cancellation or ejectment shall be made otherwise than in execution of a decree or order made under this Act.

Arrear of rent to be first charge on tenancy.

**60.** The rent of a tenancy shall be a first charge on the tenancy:

Provided that, if a tenancy is sold in execution of a decree for arrears of rent, the purchaser shall acquire the tenancy free of all liability for rent for any period prior to the date of the sale, and rent due for any such period shall be a first charge on the sale-proceeds of the tenancy.

## *Commutation of Rent payable in Kind.*

Commutation of rent payable in kind.

**61.** (*1*) When any tenure-holder or occupancy-raiyat pays for a tenure or holding rent in kind, or on the estimated value of a portion of the crop, or at rates varying with the crop, or partly in one of those ways and partly in another, or partly in any of those ways and partly in money, then the rent so payable shall not be altered, whether by private contract or otherwise, except on the application of either the tenant or his landlord to have the rent commuted to a money-rent.

(*2*) Such application may be made to the Deputy Commissioner or a Revenue-officer.

(*Section 62.*)

(*3*) When any such application is made, the Deputy Commissioner or Revenue-officer may, after such inquiry as he thinks fit to make, determine the sum to be paid as money-rent, and may order that the tenant shall, in lieu of paying his rent in kind or otherwise as aforesaid, pay the sum so determined.

(*4*) In making the determination, the said officer shall have regard to—

(*a*) the average money-rent payable by tenants for land of a similar description and with similar advantages in the vicinity;

(*b*) the average net value of the rent actually received by the landlord during the preceding ten years, or during any shorter period for which evidence may be available;

(*c*) the special circumstances (if any) which gave rise to the assessment of the rent payable by the tenant at the date of the application;

(*d*) the charges incurred by the landlord in respectof irrigation under the system of rent in kind, and the arrangements made on commutation for continuing those charges; and

(*e*) improvements effected by the landlord or the tenant in respect of the holding;

and shall proceed in the prescribed manner.

(*5*) The order shall be in writing, and shall state the grounds on which it is made and the time from which it is to take effect.

(*6*) When any such order is made by a Deputy Commissioner, it shall be subject to appeal as provided in Chapter XVI.

(*7*) When any such order is made by a Revenue-officer, an appeal shall lie in the prescribed manner and to the prescribed officer.

(*8*) If the application is opposed, the officer shall consider whether, under all the circumstances of the case, it is reasonable to grant it, and shall grant or refuse it accordingly. If he refuses it he shall record in writing the reasons for the refusal.

Period for which commuted rents are to remain unaltered.

62. Where the rent of a tenure or holding has been commuted under section 61,—

(*1*) it shall not be increased for a period of fifteen years, except—

(*a*) by order of the Deputy Commissioner, on the ground of a landlord's improvement or an alteration in the area of the tenure or holding, or

(*b*) by order of a Revenue-officer passed under Chapter XII; and

(*2*) it shall not be reduced for a period of fifteen years, except—

(*i*) by order of the Deputy Commissioner, on one of the grounds specified in provisoes (*i*) and (*iii*) to section 35, or

(*ii*) by order of a Revenue-officer passed under Chapter XII.

(*Sections 63—65.*)

*Penalties for illegal exaction of rent or prædial conditions.*

Penalty on landlord levying anything in excess of rent or lawful prædial conditions.

**63.** (*1*) A landlord who, except under any special enactment for the time being in force, levies from a tenant any money in excess of the rent lawfully payable, with interest thereon, or enforces compliance by any tenant with any prædial condition to which he is not lawfully entitled, shall, on the application of the tenant, be liable,

under the order of the Deputy Commissioner, or of any officer who may be specially empowered by the Local Government in this behalf,

to pay as penalty such sum as such officer thinks fit, not exceeding two hundred rupees, or, when double the amount or value of what is so levied or enforced exceeds two hundred rupees, not exceeding double that amount or value.

(*2*) Such sum shall be awarded to the tenant as compensation.

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## CHAPTER X.

### MISCELLANEOUS PROVISIONS AS TO LANDLORD AND TENANT.

*Korkar.*

Cases in which consent of landlord is required for conversion of land into korkar.

**64.** (*1*) The oral or written consent of the landlord for the conversion of land into korkar shall be required in every case except—

(*a*) where the land was, before such conversion, included in the tenancy of a cultivator who has acquired a right of occupancy in it, or

(*b*) where, by the custom or usage of the village, tenure or estate, such consent is not necessary.

(*2*) It shall be presumed, unless and until the contrary is proved, that the said consent is not required,—

(*i*) where any land in a village, other than land known as manjhihas or bethkheta, is entered in any register prepared and confirmed under the Chota Nagpur Tenures Act, 1869,—by a member of a Bhuinhari family, or Ben. Act II of 1869.

(*ii*) where any land in a village is entered as a Mundari khunt-kattidari tenancy, or any tenant of land in a village is entered as a Mundari khunt-kattidar, in any record-of-rights finally published under this Act or under any other law in force before the commencement of this Act,—by a member of a Mundari khunt-katti family,

who holds land in such village.

(*3*) Where the consent of the landlord is required by this section for the conversion of land into korkar, such consent shall be deemed to have been given if, within two years from the date on which the cultivator commenced such conversion, the landlord has not made an application to the Deputy Commissioner for the ejectment of the cultivator.

Power to eject cultivator or leave him in possession.

**65.** When any such application is made, the Deputy Commissioner may, after making such inquiry as he thinks fit,—

(*a*) order the ejectment of the cultivator from the land so converted into korkar, upon payment by the landlord of such reasonable compensation (if any) as the Deputy Commissioner may direct, or

(*b*) direct that the cultivator be left in undisturbed possession of the land.

(*Sections 66—72.*)

Prohibition against conversion of certain land into korkar.

**66.** Nothing in section 64 shall authorize any cultivator to convert into korkar any orchard or cultivated or homestead land in the direct possession of any other person.

Right of occupancy in korkar.

**67.** Every raiyat who cultivates or holds land which he or any member of his family has converted into korkar shall have a right of occupancy in such land, notwithstanding that he has not cultivated or held the land for a period of twelve years.

*Ejectment.*

Tenant not to be ejected except in execution of decree or order.

**68.** No tenant shall be ejected from his tenancy or any portion thereof except in execution of a decree, or in execution of an order of the Deputy Commissioner passed under this Act.

Relief against forfeitures.

**69.** (*1*) Every decree for the ejectment of an occupancy raiyat or a non-occupancy raiyat on the ground—

(*a*) that he has used the land comprised in his holding in a manner which is not authorized by local custom or usage or which materially impairs the value of the land or renders it unfit for the purposes of the tenancy; or

(*b*) that he has broken a condition, consistent with this Act, on breach of which he is, under the terms of a contract between himself and his landlord, liable to ejectment,

shall declare the amount of compensation which would reasonably be payable to the plaintiff for the misuse or breach, and whether, in the opinion of the Court, the misuse or breach is capable of remedy; and shall fix a period during which it shall be open to the defendant to pay that amount to the plaintiff, and, where the misuse or breach is declared to be capable of remedy, to remedy the same.

(*2*) The Court may from time to time, for special reasons, extend a period fixed by it under sub-section (*1*).

(*3*) If the defendant, within the period or extended period (as the case may be) fixed by the Court under this section, pays the compensation mentioned in the decree, and, where the misuse or breach is declared by the Court to be capable of remedy, remedies the misuse or breach to the satisfaction of the Court, the decree shall not be executed.

Decree or order for ejectment when to take effect.

**70.** A decree or order for ejectment passed under this Act shall take effect from the end of the agricultural year in which it is passed, or at such earlier date (if any) as the Court may direct.

Power to replace in possession tenant unlawfully ejected.

**71.** If any tenant is ejected from his tenancy or any portion thereof in contravention of section 68, he may, within a period of one year (or, if he is an occupancy-raiyat, three years) from the date of such ejectment, present to the Deputy Commissioner an application praying to be replaced in possession of such tenancy or portion; and the Deputy Commissioner may, if he thinks fit, after making a summary inquiry, replace him in possession in the prescribed manner.

*Surrender and Abandonment.*

Surrender of land by raiyat.

**72.** (*1*) A raiyat not bound by a lease or other agreement for a fixed period may, at the end of any agricultural year, surrender his holding.

(*2*) But, notwithstanding the surrender, the raiyat shall be liable to indemnify the landlord against any loss of the rent of the holding for the agricultural year next following

the date of the surrender, unless he gives to his landlord, at least four months before he surrenders, notice of his intention to surrender.

(*3*) The raiyat may, if he thinks fit, cause the notice to be served through the Court of the Deputy Commissioner within whose jurisdiction the holding or any portion of it is situate.

(*4*) When a raiyat has surrendered his holding, the landlord may enter on the holding and either let it to another tenant or take it into cultivation himself.

(*5*) Nothing in this section shall affect any arrangement by which a raiyat and his landlord may arrange for a surrender of the whole or a part of the holding.

Abandonment of land by raiyat.

**73.** (*1*) If a raiyat voluntarily abandons the land held or cultivated by him, without notice to the landlord, and ceases either himself or through any other person to cultivate the land and to pay his rent as it falls due, the landlord may, at any time after the expiration of the agricultural year in which the raiyat so abandons and ceases to cultivate, enter on the holding and let it to another tenant or take it into cultivation himself.

(*2*) Before a landlord enters under this section, he shall send a notice to the Deputy Commissioner, in the prescribed manner, stating that he has treated the holding as abandoned and is about to enter on it accordingly; and the Deputy Commissioner shall cause a notice of the fact to be published in the prescribed manner.

(*3*) When a landlord enters under this section, the raiyat shall be entitled to apply to the Deputy Commissioner for the recovery of possession of the land at any time not later than the expiration of three years, in the case of an occupancy-raiyat, or, in the case of a non-occupancy raiyat, one year, from the date of the publication of the notice; and thereupon the Deputy Commissioner may, on being satisfied that the raiyat did not voluntarily abandon his holding, restore him to possession, in the prescribed manner, on such terms (if any) with respect to compensation to persons injured and payment of arrears of rent as to the Deputy Commissioner may seem just.

*Continuance of Occupation.*

Effect of lease purporting to admit to occupation after occupation has commenced.

**74.** When a tenure-holder, village headman or raiyat has been in occupation of a tenure or holding, and a lease is executed with a view to the continuance of such occupation, he shall not be deemed to be admitted to occupation by that lease, notwithstanding that the lease may purport to admit him to occupation.

*Measurements.*

Measurement of lands.

**75.** (*1*) Every landlord of an estate, tenure or Mundari khunt-kattidari tenancy shall have a right to make a general survey or measurement of the lands comprised in such estate, tenure or tenancy, unless restrained from doing so by express engagement with the occupants of the lands.

(*2*) If any landlord intending to measure any land which he has a right to measure is opposed in making such measurement by the occupant of the land,

or if any tenant, having received notice of the intended measurement of land held or cultivated by him, which is liable to such measurement, refuses to attend and point out such land,

the landlord may present an application to the Deputy Commissioner.

(*3*) On receipt of such application the Deputy Commissioner shall, after taking such evidence and making such inquiry as he considers necessary, pass an order either allowing or disallowing the measurement, and, if the case so requires, enjoining or excusing the attendance of any tenant.

*(Sections 76—79.)*

(*4*) If any tenant, after the issue of an order enjoining his attendance, refuses or neglects to attend, any map or other record of the boundaries and measurements of the land, prepared under the direction of the landlord at the time when the tenant was directed to attend, shall be presumed to be correct until the contrary is shown.

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## CHAPTER XI.

### CUSTOM AND CONTRACT.

Saving of custom.

**76.** Nothing in this Act shall affect any custom, usage or customary right not inconsistent with, or not expressly or by necessary implication modified or abolished by, its provisions.

*Illustrations.*

I. A custom or usage whereby a raiyat obtains a right of occupancy as soon as he is admitted to occupation of the tenancy, whether he is a settled raiyat of the village or not, is not inconsistent with, and is not expressly or by necessary implication modified or abolished by, the provisions of this Act. That custom or usage, accordingly, wherever it exists, will not be affected by this Act.

II. A custom or usage by which an under-raiyat can obtain rights similar to those of an occupancy-raiyat is, similarly, not inconsistent with, and is not expressly or by necessary implication modified or abolished by, the provisions of this Act, and will not be affected by this Act.

III. A custom or usage whereby a raiyat is entitled to make improvements on his tenancy and to receive compensation therefor on ejectment is not inconsistent with, and is not expressly or by necessary implication modified or abolished by, the provisions of this Act. That custom or usage, accordingly, wherever it exists, will not be affected by this Act.

IV. A custom or usage whereby Korkar is held—

(*a*) during preparation for cultivation, rent-free, or

(*b*) during or after preparation, at a rate of rent less than the rate payable for ordinary raiyati land in the same village, tenure or estate,

is not inconsistent with, and is not expressly or by necessary implication modified or abolished by, the provisions of this Act. That custom or usage accordingly, wherever it exists, will not be affected by this Act.

Saving as to service tenures and holdings.

**77.** Except in so far as the Local Government may otherwise direct by notification, nothing in this Act shall affect any incident of a ghatwali or other service tenure or holding.

Homesteads.

**78.** When a raiyat holds his homestead otherwise than as part of his holding as a raiyat, the incidents of his tenancy of the homestead shall be regulated by local custom or usage, and, subject to local custom or usage, by the provisions of this Act applicable to land held by a raiyat.

Restrictions on exclusion of Act by agreement

**79.** (*1*) Nothing in any contract between a landlord and a tenant made before or after the commencement of this Act shall—

(*a*) bar in perpetuity the acquisition of an occupancy-right in land, or

(*b*) take away an occupancy-right in existence at the date of the contract, or

(*c*) entitle a landlord to eject a tenant otherwise than in accordance with the provisions of this Act.

(*2*) Nothing in any contract made between a landlord and a tenant between the 1st January, 1903, and the commencement of this Act shall prevent a raiyat from acquiring, in accordance with this Act, an occupancy-right in land, not being landlords' privileged lands as defined in section 118.

(*3*) Nothing in any contract made between a landlord and a tenant after the commencement of this Act, shall—

(*i*) prevent a raiyat from acquiring, in accordance with this Act, an occupancy-right in land, or

(*ii*) take away or limit the right of an occupancy-raiyat to use land as authorized by section 21, or

(*Sections 80, 81.*)

(*iii*) take away the right of an occupancy-raiyat to transfer his holding or any portion thereof subject to, and in accordance with, the provisions of this Act, or

(*iv*) take away the right of an occupancy-raiyat to apply for a reduction of rent under section 34, or

(*v*) affect the provisions of section 58 relating to interest payable on arrears of rent, or

(*vi*) take away the right of a tenant or landlord to apply for a commutation of rent under section 61, or

(*vii*) take away the right of a raiyat to surrender his holding in accordance with section 72.

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## CHAPTER XII.

### RECORD-OF-RIGHTS AND SETTLEMENT OF RENTS.

Power to order survey and preparation of record-of-rights.

**80.** (*1*) The Local Government may make an order directing that a survey be made and a record-of-rights be prepared, by a Revenue-officer, in respect of the lands in any local area, estate, or tenure or part thereof.

(*2*) A notification in the Calcutta Gazette of an order under sub-section (*1*) shall be conclusive evidence that the order has been duly made.

(*3*) The survey shall be made and the record-of-rights shall be prepared in the prescribed manner.

Particulars to be recorded.

**81.** Where an order is made under section 80, the particulars to be recorded shall be specified in the order, and may include, either without or in addition to other particulars, some or all of the following, namely:—

(*a*) the name of each tenant or occupant;

(*b*) the class to which each tenant belongs, that is to say, whether he is a tenure-holder, Mundari khunt-kattidar, settled raiyat, occupancy-raiyat, non-occupancy-raiyat, raiyat having khunt-katti rights, or under-raiyat, and, if he is a tenure-holder, whether he is a permanent tenure-holder or not, and whether his rent is liable to enhancement during the continuance of his tenure;

(*c*) the situation and quantity and one or more of the boundaries of the land held by each tenant or occupier;

(*d*) the name of each tenant's landlord;

(*e*) the name of each proprietor in the local area or estate:

(*f*) the rent payable at the time the record-of-rights is being prepared;

(*g*) the mode in which that rent has been fixed—whether by contract, by order of a Court, or otherwise;

(*h*) if the rent is a gradually increasing rent, the time at which, and the steps by which, it increases;

(*i*) the rights and obligations of each tenant and landlord in respect of—

(*i*) the use by tenants of water for agricultural purposes, whether obtained from a river, jhil, tank or well or any other source of supply, and

(*ii*) the repair and maintenance of appliances for securing a supply of water for the cultivation of the land held by each tenant, whether or not such appliances be situated within the boundaries of such land;

*Sections (82—84.)*

(*k*) the special conditions and incidents (if any) of the tenancy;

(*l*) any easement attaching to the land for which the record-of-rights is being prepared;

(*m*) if the land is claimed to be held rent-free—whether or not rent is actually paid, and, if not paid, whether or not the occupant is entitled to hold the land without payment of rent, and, if so entitled, under what authority;

(*n*) the right of any person, whether a landlord or tenant or not, to take forest-produce from jungle-land or waste-land, or to graze cattle on any land, in any village in the area to which the record-of-rights applies;

(*o*) the right of any resident of the village to reclaim jungle-land or waste-land, or to convert land into korkar.

Power to order survey and preparation of record-of-rights as to water.

**82.** The Local Government may, for the purpose of settling or averting disputes existing or likely to arise between landlords, tenants, proprietors, or persons belonging to any of these classes, regarding the use or passage of water,

make an order directing that a survey be made and a record-of-rights be prepared by a Revenue-officer, in order to ascertain and record the rights and obligations of each tenant and landlord in any local area, estate or tenure or part thereof, in respect of—

(*a*) the use by tenants of water for agricultural purposes, whether obtained from a river, jhil, tank or well or any other source of supply; and

(*b*) the repair and maintenance of appliances for securing a supply of water for the cultivation of the land held by each tenant, whether or not such appliances be situated within the boundaries of such land.

Preliminary publication, amendment and final publication of record-of-rights.

**83.** (*1*) When a draft record-of-rights has been prepared under this Chapter, the Revenue-officer shall publish the draft in the prescribed manner and for the prescribed period, and shall receive and consider any objections which may be made to any entry therein, or to any omission therefrom, during the period of publication.

(*2*) When such objections have been considered and disposed of in the prescribed manner, the Revenue-officer shall finally frame the record, and shall cause it to be finally published in the prescribed manner; and the publication shall be conclusive evidence that the record has been duly made under this Chapter.

(*3*) Separate draft or final records may be published under sub-section (*1*) or sub-section (*2*) for different local areas, estates, tenures or parts thereof.

Presumptions as to final publication and correctness of record-of-rights.

**84.** (*1*) In any suit or other proceeding in which a record-of-rights prepared and published under this Chapter, or a duly-certified copy thereof or extract therefrom, is produced, such record-of-rights shall be presumed to have been finally published, unless such publication is expressly denied; and a certificate, signed by the Revenue-officer, or by the Deputy Commissioner of any district in which the local area, estate or tenure or part thereof to which the record-of-rights relates is wholly or partly situate, stating that the record-of-rights has been finally published under this Chapter, shall be conclusive evidence of such publication.

(*2*) The Local Government may, by notification, declare, with regard to any specified area, that a record-of-rights has been finally published for every village included in that area; and such notification shall be conclusive evidence of such publication.

(*3*) Every entry in a record-of-rights so published shall be evidence of the matter referred to in such entry, and shall be presumed to be correct until it is proved, by evidence, to be incorrect.

Settlement of fair rents.

**85.** (*1*) In every area in respect of which a survey is made and a record-of-rights is prepared under section 80, the Revenue-officer may settle fair rents in respect of any land held by a tenant.

(*2*) Settlements of rents may be made under sub-section (*1*) either—

(*i*) on the application of any landlord or tenant, or

(*ii*) without such application, if the Local Government so directs.

(*3*) Such settlements shall ordinarily be made after the final publication of the record-of-rights, and shall not in any case be made on the application of a landlord or tenant after such final publication unless such application be made within two months from the date of the certificate of such final publication; but may in any case be made before such publication—

(*a*) with the consent of the parties concerned, or

(*b*) if the Revenue-officer considers that that course would, in the circumstances, be advisable.

(*4*) Whenever a settlement of rents under this section is made after the final publication of the record-of-rights, reasonable notice shall first be given to the parties concerned; and an appeal shall lie, in the prescribed manner and to the prescribed officer, from such settlement.

(*5*) For the purpose of settling rents under this section, the Revenue-officer shall have regard to such rules as may be made in this behalf under section 264.

Decision of issues arising during course of settlement of rents.

**86.** Where, in any proceedings for the settlement of rents under section 85, any of the following issues arises, namely,—

(*a*) whether the land is, or is not, liable to the payment of rent;

(*b*) whether the land, although entered in the record-of-rights as being held rent-free, is liable to the payment of rent;

(*c*) whether the relation of landlord and tenant exists;

(*d*) whether the land has been wrongly recorded as part of a particular estate or tenancy, or wrongly omitted from the lands of an estate or tenancy;

(*e*) whether the tenant belongs to a class different from that to which he is shown in the record-of-rights as belonging; or

(*f*) whether the special conditions and incidents of the tenancy, or any easement attaching to the land, have not or has not been recorded, or have or has been wrongly recorded,

the Revenue-officer shall try and decide such issue and settle the rent under section 85 accordingly.

Institution of suits before Revenue-officer.

**87.** (*1*) In proceedings under this Chapter, a suit may be instituted before a Revenue-officer, at any time within three months from the date of the certificate of the final publication of the record-of-rights under sub-section (*2*) of section 83, for the decision of any dispute regarding any entry which a Revenue-officer has made in, or any omission which he has made from, the record, whether such dispute be—

(*a*) between landlord and tenant, or

(*b*) between landlords of the same or of neighbouring estates, or

(*c*) between tenant and tenant, or

(*d*) as to whether the relationship of landlord and tenant exists, or

(*e*) as to whether land held rent-free is properly so held, or

(*f*) as to any other matter;

and the Revenue-officer shall hear and decide the dispute:

Provided that the Revenue-officer may, subject to such rules as may be made in this behalf under section 264, transfer any particular case or class of cases to a competent Civil Court for trial:

Provided also that, in any suit under this section, the Revenue-officer shall not try any issue which has been, or is already, directly and substantially in issue between the same parties, or between parties under whom they or any of them claim, in proceedings for the settlement of rents under this Chapter, where such issue has been tried and decided, or is already being tried, by a Revenue-officer under section 86 in proceedings instituted after the final publication of the record-of-rights.

(*2*) An appeal shall lie, in the prescribed manner and to the prescribed officer, from decisions passed under sub-section (*1*).

Entry in record-of-rights of rents settled and decisions made.

88. A note of all rents settled under section 85, and of all decisions under sub-section (*1*) and decisions on appeal under sub-section (*2*) of section 87, shall be made in the record-of-rights as finally published under section 83; and such note shall be considered as part of the record.

Revision by Revenue-officer.

89. (*1*) Any Revenue-officer specially empowered by the Local Government in this behalf may, on application or of his own motion, within twelve months from the making of any order or decision under section 83, section 85 or section 86, revise the same, whether it was made by himself or by any other Revenue-officer, but not so as to affect any order passed under section 87 or any order passed in appeal under section 85, sub-section (*4*):

Provided that no such order or decision shall be so revised if a suit or an appeal in respect thereof is pending under section 85, sub-section (*4*), or section 87, or until reasonable notice has been given to the parties concerned to appear and be heard in the matter.

(*2*) An appeal shall lie, in the prescribed manner and to the prescribed officer, from any order passed under sub-section (*1*).

Correction by Revenue-officer of mistakes in record-of-rights.

9. Any Revenue-officer specially empowered by the Local Government in this behalf may, on application or of his own motion, within twelve months from the date of the certificate of the final publication of the record-of-rights under sub-section (*2*) of section 83, correct any entry in such record-of-rights which he is satisfied has been made owing to a *bonâ fide* mistake:

Provided that no such correction shall be made if a suit or an appeal affecting such entry is pending under section 87, section 111, clause (*8*) or clause (*10*), section 252 or section 253, or until reasonable notice has been given to the parties concerned to appear and be heard in the matter.

Stay of certain proceedings before Deputy Commissioner or Civil Court when order made for preparation of record-of-rights.

91. (*1*) When an order has been made under section 80, or under any law in force before the commencement of this Act, directing the preparation of a record-of-rights, then, notwithstanding anything contained in the foregoing sections of this Chapter, no Deputy Commissioner or Civil Court shall, until six months after the final publication of the record-of-rights, entertain any suit or application (not being an application under the Code of Criminal Procedure, 1898,) V of 1898.

(*a*) in which there is in issue, either directly or indirectly, the existence or non-existence, in the area to which the record-of-rights applies, of any right referred to in clause (*n*) of section 81, or

(*b*) for the alteration of the rent or the determination of the status of any tenant in such area:

Provided that, if any person considers himself aggrieved by any act of waste or damage committed by any other person in respect of any waste-land or jungle-land during the period within which suits and applications are prohibited by this section, he may apply to the Deputy Commissioner, who may, after such inquiry as he thinks fit, by written order, prohibit the continuance of such waste or damage.

(*2*) The period during which the institution of a suit or the making of an application has been delayed by sub-section (*1*) shall be excluded in computing the period of limitation provided for such suit or application.

Bar to jurisdiction of Courts in matters relating to record-of-rights.

**92.** No suit shall be brought in any Court in respect of any order directing the preparation of a record-of-rights under this Chapter, or in respect of the framing, publication, signing or attestation of such a record or of any part of it.

Stay of certain proceedings before Deputy Commissioner or Civil Court when record-of-rights finally published.

**93.** (*1*) When a record-of-rights in respect of any land has been prepared under this Chapter, and finally published, no application or suit affecting any such land or any tenant thereof shall, within six months from the date of the certificate of final publication of such record-of-rights, be made or instituted before the Deputy Commissioner or in any Civil Court for the decision of any of the following issues, namely:—

(*a*) whether the relation of landlord and tenant exists;

(*b*) whether the land is part of a particular estate or tenancy;

(*c*) whether there is any special condition or incident of the tenancy, or

(*d*) whether any easement attaches to the land.

(*2*) If, before the final publication of the record-of-rights in such area, a suit involving the decision of any of the issues mentioned in sub-section (*1*) has been instituted before the Deputy Commissioner or in a Civil Court, the Revenue-officer shall not entertain any suit under section 87 involving the decision of the same issue.

(*3*) Where the making of an application or the institution of a suit has been delayed by sub-section (*1*), the period of six months therein mentioned shall be excluded in computing the period of limitation provided for such suit or application.

Period for which rents entered in the record-of-rights are to remain unaltered.

**94.** (*1*) When the rent of an occupancy holding is entered in a record-of-rights which has been prepared and finally published under this Chapter or any law in force before the commencement of this Act, then, subject to the provisions of sections 87, 89 and 90,

such rent shall not, except on the ground of a landlord's improvement, be enhanced for a period of—

(*a*) fifteen years after the final publication of the record-of-rights, when such publication was made after the commencement of this Act, or

(*b*) seven years after the final publication of the record-of-rights, when such publication was made before the commencement of this Act;

(*Section 95.*)

and such rent shall not be reduced within the said periods, respectively, save on the ground of alteration in the area of the holding or on the ground that the soil of the holding has, without the fault of the raiyat, become permanently deteriorated by a deposit of sand or other specific cause, sudden or gradual;

and no demand for rent in respect of an occupancy holding, in excess of the amount entered in the said record-of-rights, shall be enforceable, save as provided in this Chapter or in section 32:

Provided that, in any area in respect of which a record-of-rights has been finally published before the commencement of this Act, a Revenue-officer may, on the application of any landlord, made within two years from the commencement of this Act, assess a fair rent on lands which are included in a holding and are assessable with rent but for which no rent has been paid or has been entered as payable in the record-of-rights.

(*2*) The periods of fifteen years and seven years mentioned in clauses (*a*) and (*b*) of sub-section (*1*) shall be counted from the date of the final publication of the record-of-rights.

Expenses of proceedings under this Chapter.

**95.** (*1*) When the preparation of a record-of-rights has been directed or undertaken under this Chapter,

the expenses incurred in carrying out the provisions of this Chapter in any local area, estate, tenure or part thereof (including expenses that may be incurred at any time, whether before or after the preparation of the record-of-rights, in the maintenance, repair or restoration of boundary-marks and other survey marks erected for the purpose of carrying out the provisions of this Chapter), or such part of those expenses as the Local Government may direct,

shall be defrayed by the landlords, tenants and occupants of land in that local area, estate, tenure or part, in such proportions, and in such instalments (if any), as the Local Government, having regard to all the circumstances, may determine.

(*2*) The cost of preparing copies of Survey maps and extracts from records-of-rights under this Chapter for distribution to landlords and tenants shall be deemed to be part of the expenses incurred in carrying out the provisions of this Chapter.

(*3*) The estimated amount of the expenses likely to be incurred for the maintenance, repair or restoration of boundary-marks for a period not exceeding fifteen years, or such part of such amount as the Local Government may direct, may be recovered in advance in the same manner as if such expenses had been already incurred.

(*4*) The portion of the expenses referred to in the foregoing provisions of this section which any person is liable to pay shall be recoverable by the Government as if it were an arrear of land-revenue due in respect of the said local area, estate, tenure or part.

*Explanation.*—The word "tenure" in this section includes all revenue-free and rent-free tenures and holdings within a local area, estate or tenure.

(*Sections 96—98.*)

Power of Revenue-officer to give effect to agreement or compromise.

**96.** In framing a record-of-rights, and in deciding disputes, under this Chapter, the Revenue-officer shall give effect to any lawful agreement or compromise made or entered into by any landlord and his tenant:

Provided as follows:—

(*a*) the Revenue-officer shall not give effect to any agreement or compromise the terms of which, if they were embodied in a contract, could not be enforced under this Act; and

(*b*) where the terms of any agreement or compromise are such as might unfairly or inequitably affect the rights of third parties, the Revenue-officer shall not give effect to such agreement or compromise unless and until he is satisfied by evidence that the statements made by the parties thereto are correct.

*Illustration*—A, a proprietor, agrees that B, his tenant, shall be recorded as an occupancy-raiyat. This affects the rights of the tenants of B. The Revenue-officer must, under proviso (*b*), inquire whether B is a tenure-holder or a raiyat, within the meaning of section 5 or section 6. If he finds, on the evidence, that B is a raiyat, he may give effect to the agreement. If he so finds that B is a tenure-holder, he must not give effect to the agreement.

Date from which settled rent takes effect.

**97.** When a rent is settled by a Revenue-officer under this Chapter, it shall take effect from the beginning of the agricultural year next after the date of the decision finally fixing the rent.

Revision of record-of-rights, and new settlement of rents, under orders of Local Government.

**98.** (*1*) The Local Government may at any time, either of its own motion or on the application of any landlord or tenant, direct that any record-of-rights which has been finally published under this Act or under any law in force before the commencement of this Act, or any portion of any such record-of-rights, be revised, in the prescribed manner, but not so as to affect any rent entered therein.

(*2*) At any time after the expiration of the period of—

(*a*) fifteen years from the date of the certificate of the final publication of a record-of-rights, when such publication was made after the commencement of this Act, or

(*b*) seven years from the date of the certificate of the final publication of a record-of-rights, when such publication was made before the commencement of this Act,

and thereafter at intervals of periods of fifteen years, the Local Government may, of its own motion or on the application of any landlord or tenant, direct—

(*i*) that such record-of-rights or any portion thereof be revised in the prescribed manner, and

(*ii*) that a settlement of rents payable by tenants be made under section 85.

(*3*) The foregoing sections of this Chapter shall, subject to any rules made in this behalf under section 264, apply to every revision and settlement referred to in sub-section (*1*) or sub-section (*2*).

Enhancement of rent where application under section 98 is rejected.

**99.** If the Local Government rejects any application made by a landlord under section 98, sub-section (*2*), for a revision of a record-of-rights after the expiration of the period of fifteen years or the period of seven years, as the case may be, referred to in that sub-section, such landlord may apply to the Deputy Commissioner for the enhancement of any rent entered in such record-of-rights as being payable to him.

Validation of directions given, before the commencement of this Act, for the record of certain rights.

**100.** Where a direction has been given, in any order made under section 101 of the Bengal Tenancy Act, 1885, before the commencement of this Act, for the record of any rights of the kind mentioned in clause (*n*) of section 81 of this Act, such direction shall be deemed to be as valid as if the said clause had been enacted before such order was made. VIII of 1885.

## CHAPTER XIII.

### PRÆDIAL CONDITIONS, AND THE COMMUTATION AND RECORD THEREOF.

Prohibition against new prædial conditions.

**101.** From and after the commencement of this Act,—

(*a*) no tenancy shall be created with any prædial condition attached, other than rent-free tenancies with the sole condition of rendering personal service; and

(*b*) no new prædial condition shall be imposed on any tenancy in existence at the time of such commencement.

Liability of tenant when original conditions of tenancy cannot be ascertained.

**102.** When the original conditions of a tenancy cannot be ascertained, the tenant shall not be liable to any prædial conditions other than or in excess of those to which, by local custom or usage, he, in common with the general body of the class to which he belongs in the village, tenure or estate in which the lands of the tenancy are situated, is liable:

Provided that, in any case in which prædial conditions have been complied with by a tenant for a period of five years continuously, any Revenue-officer acting under this Chapter may, when commuting such conditions under this Chapter, presume that the same have been complied with in accordance with local custom or usage or in accordance with an express or implied contract made at the commencement of the tenancy.

Method of calculating present value of prædial condition.

**103.** When, in any proceedings under this Act, it becomes necessary for a Court to calculate the value of any prædial condition, such value shall be taken to be its average value during the ten years immediately prior to the proceedings, or during any shorter period for which evidence may be available.

Procedure in suit for rent and value of prædial conditions.

**104.** When, in any suit for the recovery of rent, it is sought to recover the value of the prædial conditions appurtenant to a tenancy, an issue may be framed as to whether the value of the prædial conditions, when added to the rent payable in respect of the tenancy, exceeds a fair rent; and, if it is found that the resulting amount exceeds a fair rent, the Court shall decree the rent and so much (if any) of the value of the prædial conditions as, together with the rent, will not exceed the sum which would, having regard to the special circumstances of the case, be a fair rent.

Voluntary commutation of prædial conditions.

**105.** (*1*) When any land is held subject to any prædial conditions, the tenant or the landlord may apply in writing to a Revenue-officer for commutation of such conditions.

(*Sections 106, 107.*)

(*2*) The Revenue-officer shall thereupon cause a notice to be served on the landlord or the tenant, as the case may be, and shall fix a day for considering the application ; and on such day, or any day thereafter to which the hearing may be adjourned, shall proceed to inquire into the matter and to determine the amount which, in his judgment, is fairly and equitably payable in commutation of such conditions.

(*3*) In calculating the said amount, the Revenue-officer shall have regard only to the conditions to which the tenant is liable in accordance with local custom or usage or with any contract made when the tenancy commenced, and to the money value of such conditions at the time of making such calculation, and shall follow the procedure provided in section 103 :

Provided that the amount payable in commutation shall be so fixed that the total annual rent of the land, including such amount as aforesaid, shall not exceed the sum which would, having regard to the special circumstances of the case, be a fair and reasonable rent if the land were not held subject to any prædial conditions.

Power to order record of prædial conditions, with or without commutation.

**106.** (*1*) The Local Government may, in any case in which it is, in its opinion, expedient so to do, make an order directing either—

(*a*) that a record of all prædial conditions to which the lands within any local area or any estate, tenure or part thereof are subject shall be prepared, and a commutation of such conditions made, by a Revenue-officer; or

(*b*) that a record as aforesaid be made by a Revenue-officer without commutation of such conditions as aforesaid.

(*2*) A notification in the Calcutta Gazette of an order under this section shall be conclusive evidence that the order has been duly made.

(*3*) The record of prædial conditions shall be prepared in the prescribed manner.

Preparation of record.

**107.** (*1*) Whenever an order is made under section 106, the Revenue-officer shall thereupon proceed to prepare a record containing the following particulars, namely :—

(*a*) the name of each tenant ;

(*b*) the name of his landlord ;

(*c*) the rent payable for the lands held by each tenant at the time the record is being prepared ;

(*d*) the prædial conditions to which all or any of such lands are subject ;

(*e*) the amount which, in the judgment of the Revenue-officer, may fairly be deemed payable in commutation of such conditions, and

(*f*) any other prescribed particulars.

(*2*) In calculating the amount payable in commutation of such conditions, the Revenue-officer shall be guided by the provisions of section 105, sub-section (*3*).

*(Sections 108—111.)*

Publication of record.

**108.** (*1*) When the Revenue-officer has prepared a record under section 107, he shall cause a draft of the same to be locally published in the prescribed manner and for the prescribed period, and shall receive and consider any objections which may be made to any entry therein or to any omission therefrom during the period of publication.

(*2*) When objections have been considered and disposed of in the prescribed manner, the record shall be finally framed and published in the prescribed manner.

(*3*) Separate drafts or records may be published under sub-section (*1*) or sub-section (*2*) for different local areas, estates, tenures or parts thereof.

Appeal from orders of Revenue-officers.

**109.** An appeal shall lie, in the prescribed manner and to the prescribed officer, from any order of a Revenue-officer under this Chapter.

Revision by Commissioner or Board.

**110.** The Commissioner or the Board may direct the revision of any record prepared under this Chapter, or any portion of such record, at any time within two years from the date of the final publication of the record, but not so as to affect any decision from which an appeal has been preferred under section 109:

Provided that no such direction shall be made until reasonable notice has been given to the parties concerned to appear and be heard in the matter.

Procedure where a survey and record-of-rights are being made.

**111.** In every local area, estate, tenure or part thereof, in which a survey is being made and a record-of-rights is being prepared under this Act or under any law in force before the commencement of this Act,

and in which a record of prædial conditions is being prepared and a commutation thereof is being made under an order issued under section 106,

sections 107 to 109 shall not apply, and the following provisions shall have effect, namely:—

(*1*) The Revenue-officer shall, at the time of attesting the preliminary record, ascertain all the prædial conditions to which, by local custom or usage or by contract made when the tenancy commenced, each tenant is liable, and the cash values of such conditions; and shall prepare a statement, in the prescribed form, showing the conditions and values so ascertained.

(*2*) In calculating the cash value of such conditions, the Revenue-officer shall be guided by the provisions of section 105, sub-section (*3*).

(*3*) The Revenue-officer shall enter in the *khatiyán* of each tenant the cash value of the prædial conditions (if any) to which such tenant is liable, as ascertained under clause (*1*).

(*4*) If any tenant is liable, by local custom or usage or by contract made when the tenancy commenced, to any prædial conditions other than those to which the general body of tenants are liable, or is not liable to all the prædial conditions to which the general body of tenants are liable, the Revenue-officer shall also specify in the *khatiyán* the prædial conditions to which such tenant is liable.

(*5*) The statement prepared under clause (*1*), and the entries in the *khatiyán*, shall be published in draft in the same manner and for the same period as the record-of-rights.

(*6*) Objections as to entries or omissions in the statement or *khatiyán* relating to prædial conditions may be made under the same conditions as objections to entries in or omissions from the record-of-rights, and shall be disposed of in the same manner as such objections.

(*Sections 112—116.*)

(7) After the disposal of objections, the said statement, and the entries in the *khatiyan* relating to prædial conditions, shall be finally published at the same time and in the same manner as the record-of-rights.

(8) At any time within three months from the date of the certificate of the final publication of the record-of-rights, a suit may be instituted before a Revenue-officer, for the decision of any dispute regarding any entry in the record relating to prædial conditions or regarding any omission to enter any such conditions in the record; and the Revenue-officer shall hear and decide the dispute.

(9) In all such suits the Revenue-officer shall, subject to any rules made in this behalf under section 264, adopt the procedure laid down in Chapter XVI for the trial of suits.

(10) An appeal shall lie, in the prescribed manner and to the prescribed officer, from any decision of a Revenue-officer under clause (8).

Note of decisions in record-of-rights.

**112.** A note of all decisions under clause (8) and decisions on appeal under clause (10) of section 111, shall be made in the record-of-rights as finally published under section 83, and such note shall be considered as part of the record.

Decision of question as to whether a payment in kind is a prædial condition or a payment of rent in kind.

**113.** Where, in any proceeding under this Chapter or under section 61, a question arises as to whether a payment in kind is a prædial condition or a payment of rent in kind, the Revenue-officer acting under this Chapter, or the officer acting under section 61, as the case may be, shall, after such inquiry as he may consider necessary, decide whether in fact the payment is a prædial condition or not.

Commencement and effect of commutation.

**114.** (1) When the commutation of any prædial conditions is settled under this Chapter, for any local area or estate, tenure or part thereof, the settlement shall take effect from the beginning of the agricultural year next after the final publication of the record.

(2) The amount determined by a Revenue-officer under this Chapter to be payable by a tenant in commutation of prædial conditions shall be deemed to be part of the rent payable by the tenant, and shall be recoverable accordingly.

Expenses of voluntary commutation.

**115.** When in any case the proceedings under section 105 have been completed, the Revenue-officer shall apportion the total expenses thereof between the landlord and tenant in such proportion as, having regard to all the circumstances, he may deem fit; and the amounts so apportioned shall be recoverable as an arrear of land-revenue.

Expenses of record and compulsory commutation.

**116.** (1) The expenses incurred by the Government in carrying out in any local area or any estate, tenure or part thereof any order made under section 106, or such part of those expenses as the Local Government may direct, shall be defrayed by the landlords and tenants of land in that local area, estate, tenure or part, in such proportions as the Local Government, having regard to all the circumstances, may determine.

(2) The portion of the aforesaid expenses which any person is liable to pay shall be recoverable by the Government as if it were an arrear of land-revenue due in respect of the said local area, estate, tenure or part.

*Explanation.*—The word "tenure" in this section includes all revenue-free and rent-free tenures and holdings within a local area, estate or tenure.

(*Sections 117—123.*)

Saving of right to claim reduction or enhancement of rent.

**117.** No proceedings under this Chapter shall bar the right of any tenant or landlord to claim a reduction or enhancement of rent under this Act after such proceedings have been completed.

## CHAPTER XIV.

### RECORD OF LANDLORDS' PRIVILEGED LANDS.

Definition of "landlords' privileged lands."

**118.** (*1*) The expression "landlords' privileged lands," as used in this Chapter, means—

(*a*) lands which are cultivated by the landlord himself with his own stock or by his own servants or by hired labour, or are held by a tenant on lease for a term of years or year by year, and which are, by custom, recognized as privileged land in which occupancy-rights cannot accrue, and

(*b*) lands which are entered as manjhihas or bethkheta in any register prepared and confirmed under the Chota Nagpur Tenures Act, 1869. Ben. Act II of 1869.

(*2*) From such date as the Local Government may, by notification, direct, no lease shall be considered for the purposes of clause (*a*) of this section unless it be in writing.

Power to direct a survey and record of landlords' privileged lands.

**119.** The Local Government may, by notification, direct a Revenue-officer to make a survey and record of all lands in any specified local area which are landlords' privileged lands within the meaning of clause (*a*) of section 118.

Application of certain sections.

**120.** When a notification has been published under section 119, directing the making of a record, the provisions of sections 83, 84, 87, 88, 90, 95 and 96, so far as they may be applicable, shall apply to such record as if it were a record-of-rights referred to in those sections.

Power to record landlords' privileged lands on application of landlord or tenant.

**121.** When any land is alleged to be a landlord's privileged land within the meaning of clause (*a*) of section 118, then, on the application of the landlord or of any tenant of the land, and on his depositing the required amount for expenses, a Revenue-officer may ascertain and record whether the land is or is not landlord's privileged land within the meaning of the said clause:

Provided that, when a record of such lands has been or is being made by a Revenue-officer under section 119, no application shall be entertained under this section.

Procedure in inquiries

**122.** In any inquiry under this Chapter, a Revenue-officer—

(*1*) shall have regard to any evidence that may be available in respect of the following among other matters, namely:—

(*a*) who originally reclaimed the lands and brought them under cultivation,

(*b*) whether the lands have at any time been let as landlords' privileged lands or as raiyati lands, and

(*c*) whether the lands have, since their reclamation, been let year by year, or for specific periods, or for indefinite periods; and

(*2*) shall proceed in the prescribed manner; and

(*3*) shall receive in evidence any judgment, decree or order of a Civil Court or of the Deputy Commissioner, if the same be relevant;

but no such judgment, decree or order shall be conclusive proof that the lands are, or are not, landlords' privileged lands.

Presumption that lands are not landlords' privileged lands.

**123.** In any inquiry by a Revenue-officer under this Chapter or by any Court, as to whether lands are or are not landlords' privileged lands, the officer or Court shall presume, until the contrary is proved, that the lands are not landlords' privileged lands.

(*Sections 124—130.*)

No land in certain villages to be recorded as landlords' privileged lands.

**124.** Where any land in any village is entered as manjhihas or bethkheta in any register prepared and confirmed under the Chota Nagpur Tenures Act, 1869, a Revenue-officer acting under this Chapter shall not record any other lands in that village as being landlords' privileged lands. Ben. Act II of 1869.

Exclusion of unrecorded lands from category of landlords' privileged lands.

**125.** When a record of landlords' privileged lands has been prepared under section 119 for any area, no other lands in that area shall be deemed to be landlords' privileged lands.

Appeal.

**126.** An appeal shall lie, in the prescribed manner and to the prescribed officer, from decisions and orders of a Revenue-officer under this Chapter.

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## CHAPTER XV.

RECORD-OF-RIGHTS AND OBLIGATIONS OF RAIYATS HAVING KHUNT-KATTI RIGHTS, VILLAGE HEADMEN AND OTHER CLASSES OF TENANTS.

Record-of-rights and obligations of raiyats having khunt-katti rights, village headmen, and other classes of tenants.

**127.** (*1*) The Local Government may make an order directing that a record be prepared by a Revenue-officer of the rights and obligations in any specified local area of—

(*a*) raiyats having khunt-katti rights;

(*b*) headmen of villages or groups of villages, whether known as mankis or pradhans or manjhis or otherwise; or

(*c*) any other class of tenants;

and that a settlement of fair rents to be paid by such persons, or any of them, be made.

*Explanation.*—The word "rights," as used in this sub-section, includes the right of a village-headman to hold his office, as well as his right to hold land.

(*2*) A notification in the Calcutta Gazette of an order under this section shall be conclusive evidence that the order has been duly made.

Application of certain sections.

**128** (*1*) When a notification has been published under section 127, directing the preparation of a record, the provisions of section 81, section 83, section 84, sub-sections (*1*) and (*2*), and sections 89 to 96, so far as they may be applicable, shall apply as if such record were referred to in those sections.

(*2*) When any such notification directs that a settlement of fair rents be made, the provisions of section 85, sub-sections (*3*), (*4*) and (*5*), section 86, section 89 and sections 95 to 97, so far as they may be applicable, shall apply to such settlement as if it were a settlement referred to in those sections.

Notice of entries to interested persons.

**129.** At the time of the final publication of a record prepared by a Revenue-officer under this Chapter, that officer shall cause a copy of the entries therein to be served, in the prescribed manner, on all persons interested in such entries, so far as such persons can be ascertained.

Suits to decide disputes as to entries in, or omissions from, record.

**130.** (*1*) Where there is a dispute regarding the correctness of any entry made in a record prepared under this Chapter, or regarding any incorrect omission therefrom, a suit may be instituted before a Revenue-officer, at any time within three months from the date of the certificate of the final publication of the record:

Provided that, in any suit under this section, the Revenue-officer shall not try any issue which has been, or is already, directly and substantially in issue between the same parties, or between parties under whom they or any of them claim, in proceedings for the settlement of rents, where such issue has been tried and decided, or is already being tried, by a Revenue-officer acting under section 86 in proceedings instituted after the final publication of the record.

(*2*) In all suits under this section the Revenue-officer shall, subject to any rules made in this behalf under section 264, adopt the procedure laid down in Chapter XVI for the trial of suits before the Deputy Commissioner.

(*3*) An appeal shall lie, in the prescribed manner and to the prescribed officer, from the decision of the Revenue-officer in such suits.

(*Sections 131—139.*)

Note of final decisions in record.

**131.** A note of all decisions under sub-section (*1*) of section 130, and of all decisions on appeal under sub-section (*3*) of that section, shall be made in the record prepared under section 127, and such note shall be considered as part of the record.

Evidential value of entries.

**132.** When a record has been finally published under section 128, or amended under section 131, the entries made therein shall be conclusive evidence of the rights and obligations of the tenants to which such entries relate, and of all the particulars recorded in such entries.

Revenue-officer to have regard to origin and nature of tenancy and status of tenant.

**133.** In making inquiries under this Chapter into the rights and obligations of tenants, the Revenue-officer shall have regard to the origin and nature of each tenancy and to the real status of the tenant, notwithstanding that the tenant may have been described in any document as a thikadar or temporary lease-holder or in any other similar terms.

Exclusion of unrecorded lands from category of khunt-katti lands.

**134.** When a record of the rights and obligations of raiyats having khunt-katti rights has been prepared under this Chapter for any local area, no lands in such area, which are not entered in such record, shall be recognized as lands in respect of which khunt-katti rights can be acquired.

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## CHAPTER XVI.

### JUDICIAL PROCEDURE IN MATTERS COGNIZABLE BY THE DEPUTY COMMISSIONER.

Place for holding Deputy Commissioner's Court.

**135.** The Deputy Commissioner may hold a Court, for hearing and determining suits and applications under this Act, in any place within the local limits of his jurisdiction:

Provided that every hearing and decision shall be in open Court, and that the parties to the suit or application, or their agents, shall have had due notice to attend at such place.

Office for instituting suits and making applications.

**136.** Suits and applications before the Deputy Commissioner under this Act shall respectively be instituted and made—

(*a*) in the revenue-office of the district; or

(*b*) when the cause of action has arisen within the local limits of the jurisdiction of a Deputy Collector who is empowered to receive such suits or applications, then in the office of such Deputy Collector; or

(*c*) in the office of the Revenue-officer having jurisdiction to entertain the same.

Withdrawal of suits.

**137.** The Deputy Commissioner may withdraw any suit from any Deputy Collector or Revenue-officer who is exercising powers of the Deputy Commissioner under this Act, and may try it himself or transfer it to any Deputy Collector.

Jurisdiction where land is situated in more than one district or sub-division.

**138.** (*1*) When any suit is instituted or application made in respect of any land comprised in a tenure or holding, and such land is situated in more than one district or sub-division, the district or sub-division in which the greater part of such land is situated shall be deemed to be the district or sub-division in which the cause of action has arisen;

and, if any question be raised respecting the district or sub-division in which the greater part of the land is situated, the Board or (if the land is situated in one district) the Deputy Commissioner shall decide the question.

(*2*) Except as provided in sub-section (*1*), no Deputy Commissioner shall exercise any jurisdiction under this Act in respect of any land situated beyond the local limits of his jurisdiction, even if such land forms part of an estate the revenue of which is paid into the treasury of his district.

Certain suits and applications cognizable only by the Deputy Commissioner.

**139.** The following suits and applications shall be cognizable by the Deputy Commissioner, and shall be instituted and tried or heard under the provisions of this Act, and shall not be

cognizable in any other Court, except as otherwise provided in this Act, namely:—

(*1*) all suits for the delivery of leases or counterpart engagements;

(*2*) all suits and applications for the determination of the rent payable by any tenant for agricultural land;

(*3*) all suits for arrears of rent due on account of—

(*a*) agricultural land, whether subject to the payment of rent or only to the payment of dues which are recoverable as if they were rent, or

(*b*) rights of pasturage, rights to take forest-produce, rights of fishery or other similar rights;

(*4*) all suits under this Act to eject any tenant of agricultural land or to cancel any lease of agricultural land;

(*5*) all applications to recover the occupancy or possession of any land from which a tenant has been unlawfully ejected by the landlord or any person claiming under or through the landlord;

(*6*) all suits by or against headmen of villages or groups of villages (whether known as mankis or pradhans or manjhis or otherwise) for a declaration of title in, or for possession of, their office or agricultural land, whether based or not on an allegation of the existence or non-existence of the relationship of landlord and tenant;

(*7*) all suits, by landlords and others in receipt of the rent of land, against any agents employed by them in the management of land or the collection of rents, or the sureties of such agents, for money received or accounts kept by such agents in the course of such employment, or for papers in their possession; and

(*8*) all suits and applications in respect of which jurisdiction is conferred by this Act on the Deputy Commissioner.

Collective suits or applications.

**140.** Subject to such rules (if any) as may be made in this behalf under section 264, a suit may be instituted before, or an application may be made to, the Deputy Commissioner collectively by or against any number of tenants holding land in the same village; and an allegation that such tenants are wrongly joined shall be no ground for dismissing a suit or refusing to hear an application;

but no order shall be passed in any such collective suit or on any such collective application unless the officer making the same is satisfied that all parties have had an opportunity to appear and make objection to any claims preferred against them;

and if at any time it appears to the Deputy Commissioner that the question between any two of the parties of whom one is so joined with others cannot conveniently be jointly tried or heard, the Deputy Commissioner may order a separate trial or hearing.

Order or decree in collective suit or on collective application to specify how far it affects each tenant.

**141.** Every order or decree passed in any case which is tried or heard jointly under section 140 shall specify the extent to which each of the tenants named in the order or decree shall be affected thereby.

Suit by co-sharer landlord for rent.

**142.** (*1*) Notwithstanding anything contained in section 257, a co-sharer landlord may institute a suit to recover from a tenant—

(*a*) his share of the rent, when such share is collected separately, or

(*b*) the whole of the rent due to the plaintiff and his co-sharers, when all or any of his co-sharers who refuse to join in the suit are made defendants therein.

(*2*) When, in a suit instituted under clause (*b*) of sub-section (*1*), the plaintiff is unable to ascertain what rent is due for the whole tenure or holding, or whether the rent due to the other

co-sharer landlords has been paid or not, owing to the refusal or neglect of the tenant or the said landlords to furnish him with correct information on these points or either of them,

the Deputy Commissioner shall determine—

(*i*) what sum (if any) is due to the plaintiff for rent, interest thereon, and costs, and

(*ii*) what sums (if any) are due to the said landlords, respectively, on account of their share of the rent and interest thereon,

for the period in respect of which the suit is brought; and shall decree the suit accordingly.

(*3*) Notwithstanding anything contained in *Explanation I* to section 47, or in section 196, a decree awarding to a plaintiff a sum referred to in clause (*i*) of sub-section (*2*) shall, as regards the remedies for enforcing the same, be as effectual as a decree obtained by a sole landlord or an entire body of landlords in a suit brought for the rent due to all the co-sharers.

(*4*) When the sums due from a tenant to any co-sharer landlord are determined under clause (*ii*) of sub-section (*2*), in respect of any period, then no further suit shall lie against such tenant for rent alleged to be due to such landlord in respect of that period.

Institution of suits by presentation of statement of claim

**143.** Suits before the Deputy Commissioner under this Act shall be instituted by presenting a statement of claim, showing—

(*a*) the name, description and place of abode of the plaintiff;

(*b*) the name, description and place of abode of the defendant, so far as they can be ascertained;

(*c*) the substance of the claim, and

(*d*) the date of the cause of action.

Additional particulars required in statement of claim in certain suits and in certain applications.

**144.** (*1*) In all suits and applications before the Deputy Commissioner for the recovery of an arrear of rent, or for the ejectment of a tenant from any tenure or holding, or for the recovery of occupancy or possession of any tenure or holding, the statement of claim or application shall contain, in addition to the particulars required by section 143,—

(*a*) a specification of the situation and designation of the land held by the tenant, and

(*b*) a specification of the extent and boundaries of such land, or (if the plaintiff is unable to specify the extent or boundaries) a description sufficient for the identification of the land.

(*2*) In all suits and applications referred to in sub-section (*1*), and in all other suits and applications before the Deputy Commissioner under this Act relating to the rent of land or to any right or easement arising out of land,

if a survey has been made and a record-of-rights has been finally published under this Act or under any law in force before the commencement of this Act, in respect of the land to which the suit or application relates,

the statement of claim or application shall further contain the following particulars, namely:—

(*i*) a list of the survey plots comprised in the tenancy,

(*ii*) a statement of the rental of the tenancy according to the record-of-rights, and

(*iii*) a copy of all entries in the record-of-rights in regard to the subject-matter of the suit or application,

unless the Deputy Commissioner is satisfied, for reasons to be recorded in writing, that it is not necessary that such particulars or any of them should be furnished or that the plaintiff was prevented by any sufficient cause from furnishing such particulars or any of them:

Provided that, in all cases in which the Deputy Commissioner admits a statement of claim or application which does not contain the said particulars, he may direct the supply, without payment of fee, of a verified or certified copy of, or extract from, the record-of-rights relating to the tenancy and the question in dispute in the suit or application.

(*3*) Where, since the record-of-rights was prepared and finally published, an alteration has been made in the area of the tenancy, the statement of claim must further show how the amount of the rent claimed in the suit has been calculated.

Substitution of copies or extracts for original documents admitted in evidence.

145. When any account-books, rent-rolls, collection-papers, measurement-papers or maps have been produced by the landlord before the Deputy Commissioner in any suit or proceeding under this Act, and have been admitted in evidence in the suit or proceeding or in any inquiry pending before the Deputy Commissioner,

copies of, or extracts from, such documents, certified by a duly authorized officer of the Court of the Deputy Commissioner to be true copies or extracts, may, with the permission of the Deputy Commissioner, be substituted on the record for the originals, which may then be returned to the landlord;

and thereafter copies or extracts, so certified, may be admitted in evidence in any other suit or proceeding instituted before the same or any other Deputy Commissioner under this Act, unless the Deputy Commissioner before whom they are produced sees fit to require the production of the originals.

Statement of claim by whom to be presented.

146. The statement of claim shall be presented by the plaintiff, or by an agent of the plaintiff who is acquainted with the facts of the case.

Signature and verification of statement of claim.

147. The statement of claim shall be subscribed and verified at the foot, by the plaintiff or his agent, in the following form:—

"I, A B, do declare that the above statement is true to the best of my knowledge, information and belief."

Production of documents by plaintiff.

148. (*1*) If the plaintiff relies in support of his claim on any document in his possession, he must produce such document before the Deputy Commissioner at the time of presenting his statement of claim.

(*2*) If such document be not so produced, it shall not afterwards be admitted unless the Deputy Commissioner, for sufficient reasons to be recorded in writing, thinks fit to admit it.

Production of documents by defendant.

149. If the plaintiff requires the production of any document in the possession or power of the defendant, he may, at the time of presenting his statement of claim, deliver a description of the document to the Deputy Commissioner, in order that the defendant may be directed to produce the document.

Return or amendment of statement of claim.

150. If the statement of claim does not contain the several particulars required by section 143 or by sections 143 and 144, as the case may be, or is not subscribed and verified as required by section 147, the Deputy Commissioner may return the statement to the plaintiff, or may at his discretion allow it to be amended.

Issue of summons to defendant.

151. If the statement of claim is in proper form, the Deputy Commissioner shall direct the issue of a summons to the defendant, in the prescribed form.

Attendance of defendant personally or by agent.

152. If the plaintiff requires the personal attendance of the defendant, and satisfies the Deputy Commissioner that such personal attendance is necessary, or if the Deputy Commissioner of his own accord requires such personal attendance, the summons shall contain an order for the defendant to appear personally on a day to be specified in the summons; otherwise the summons shall order the defendant to appear personally or by an agent who is acquainted with the facts of the case.

(*Sections 153—161.*)

Production of documents and witnesses.

**153.** The said summons shall order the defendant to produce any document which he has in his possession and of which the plaintiff demands inspection, or upon which the defendant may intend to rely in support of his defence ;

and shall also enjoin the defendant to bring his witnesses with him if they are willing to attend without issue of process.

Deposit of cost of serving summons.

**154.** If the amount of the cost of serving the summons be not deposited in the prescribed manner, the claim shall be rejected; but in such case the plaintiff may present another statement of claim at any time within the period provided by this Act for the limitation of suits.

Procedure when neither party appears.

**155.** If, on the day fixed by the summons for the appearance of the defendant, or on any subsequent day to which the hearing of the case may be postponed prior to the framing of issues as provided in section 167, neither of the parties appears in person or by agent, the case shall be struck off, with liberty to the plaintiff to bring a fresh suit unless precluded by the provisions for the limitation of suits contained in this Act.

Procedure when only the defendant appears.

**156.** If, on such day, only the defendant appears, the Deputy Commissioner shall dismiss the suit, unless the defendant admits the claim or part thereof, in which case the Deputy Commissioner shall pass a decree against the defendant upon such admission, without costs, and, where part only of the claim has been admitted, shall dismiss the suit so far as it relates to the remainder :

Provided that such decree, if there be more than one defendant, shall be only against the defendant who makes the admission.

Procedure when only the plaintiff appears.

**157.** If, on such day, only the plaintiff appears, the Deputy Commissioner, upon proof that the summons has been duly served, shall proceed to examine the plaintiff or his agent, and, after considering the allegations of the plaintiff and any documentary or oral evidence adduced by him, may either dismiss the case, or postpone the hearing of it to a future day for the attendance of any witness whom the plaintiff may wish to call, or decree the suit *ex parte* against the defendant.

Production of documents by defendant.

**158.** If the defendant relies on any document in support of his defence, he shall produce it before the Deputy Commissioner at the first hearing of the suit; and, if such document is not so produced, it shall not afterwards be admitted, unless the Deputy Commissioner, for sufficient reasons to be recorded in writing, thinks fit to admit it.

Hearing of defendant on day to which case is postponed.

**159.** If the defendant appears on any subsequent day to which the hearing of the suit may be postponed under section 157, the Deputy Commissioner may, upon such conditions (if any) as to costs or otherwise as he may think proper, allow the defendant to be heard in answer to the suit as if he had appeared on the day fixed for his attendance.

Exemption of women from personal attendance.

**160.** A female plaintiff or defendant shall not be required to attend in person if of a rank or class which, according to the customs and manners of the country, would render it improper for her to appear in public.

Employment of agents.

**161.** (*1*) Any party to a suit before the Deputy Commissioner under this Act may employ an agent to conduct the case on his behalf; but the appointment of an agent shall not excuse the personal attendance of the plaintiff or defendant in cases where his personal attendance is required by the summons or by any order of the Deputy Commissioner.

(2) Processes served on any such agent shall be as effectual for all purposes in relation to the suit as if they had been served on the party in person; and all the provisions of this Act relating to the service of processes on a party to the suit shall be applicable to the service of processes on such agent.

Power to grant time or adjourn hearing.

**162.** The Deputy Commissioner may in any case grant time to the plaintiff or defendant to proceed in the prosecution or defence of a suit, and may also from time to time, in order to secure further evidence, or for other sufficient reason to be recorded by him, adjourn the hearing or further hearing of any case in such manner as he may think fit.

Examination and cross-examination of parties or their agents and of witnesses; written statement by defendant.

**163.** (1) When both parties appear in person on the day named in the summons, or upon any subsequent day to which the hearing of the case may be adjourned under section 162, the Deputy Commissioner shall proceed to examine them, and either party or his agent may cross-examine the other.

(2) If either of the parties is not bound to attend personally, any agent by whom he appears shall be examined and cross-examined in like manner as the party himself would have been if he had attended personally.

(3) At his first appearance, or at any time before the issues are framed, the defendant may, with the leave of the Deputy Commissioner, file a written statement of his defence.

(4) Such statement shall be verified in the manner provided in section 147.

(5) If either of the parties produces a witness on the day aforesaid, the Deputy Commissioner may take the evidence of such witness.

Conduct and record of examination.

**164.** (1) The examination of the parties or their agents shall be conducted according to the law for the time being in force for the examination of witnesses.

(2) The depositions of parties, agents and witnesses shall be recorded in English, or, if the Deputy Commissioner is not sufficiently acquainted with English, then in the vernacular language of the Deputy Commissioner.

Power to direct attendance of party whose agent cannot answer material question.

**165.** If the agent of either party is unable to answer any material question relating to the case, which the Deputy Commissioner is of opinion that the party whom he represents ought to answer and is likely to be able to answer if interrogated in person, the Deputy Commissioner may postpone the hearing of the case to a future day, and may direct that such party shall attend in person on such day;

and, if such party fails to appear in person on the day appointed, the Deputy Commissioner may decide the suit as in case of default, or make such other order as he may deem proper in the circumstances of the case.

Decree when to be made.

**166.** If, after the examination required by section 163, and after the examination of any witness who may attend to give evidence on behalf of either of the parties, and after a consideration of the documentary evidence adduced, a decree can properly be made without taking further evidence, the Deputy Commissioner shall make a decree accordingly.

(*Sections 167—172.*)

Power to postpone trial to take further evidence.

**167.** If it appears that the parties are at issue on any question upon which it is necessary to hear further evidence, the Deputy Commissioner shall frame issues, and shall fix a day for the examination of witnesses and the final hearing of the suit; and the trial shall take place on that day, unless there be sufficient reason for adjourning it, which reason shall be recorded by the Deputy Commissioner.

Production of witnesses.

**168.** The parties shall produce their witnesses on the day of the trial; and, if either party requires assistance to procure the attendance of a witness on such day, either to give evidence or to produce a document, he shall apply to the Deputy Commissioner in sufficient time before such day to enable the witness to be summoned and to attend on that day; and, if the application be made in sufficient time as aforesaid, the Deputy Commissioner shall issue a summons requiring such witness to attend.

Procedure when neither party appears on day fixed for final hearing of suit.

**169.** (*1*) If, on the day fixed for the final hearing of the suit, neither of the parties appears, the case shall be struck off under the conditions provided in section 155.

(*2*) If, on such day, only one of the parties appears, the suit may be tried and determined, in the absence of the other party, upon such proof as may then be before the Court.

Judgment.

**170.** (*1*) The Deputy Commissioner shall pronounce judgment in open Court.

(*2*) The judgment shall be written in English, and shall contain the reasons for the decision, and shall be dated and signed by the Deputy Commissioner at the time when it is pronounced:

Provided that any judgment may be written in the vernacular if the Deputy Commissioner is not sufficiently acquainted with English.

Local inquiries.

**171.** (*1*) The Deputy Commissioner may, at any stage of a suit or other proceeding before him under this Act,—

(*a*) cause a local inquiry and report respecting the matter in dispute to be made by any officer subordinate to him, or by any other officer of the Government with the consent of the authority to whom such officer is subordinate, or by any other person whom the Deputy Commissioner may deem fit; or

(*b*) himself proceed to the spot and make such local inquiry in person.

(*2*) The provisions of the law for the time being in force, relating to local inquiries by Commissioners under orders of Civil Courts, shall apply to any local inquiry made under clause (*a*) of sub-section (*1*), and, so far as they are applicable, also to inquiries made under clause (*b*) of that sub-section.

(*3*) Where the Deputy Commissioner makes a local inquiry in person, he shall forthwith record on the proceedings any relevant facts which he has observed in the course of the inquiry; and such record shall be received as evidence in the suit or other proceeding aforesaid.

Payment into Court by defendant, after tender to plaintiff.

**172.** (*1*) The defendant in any suit before the Deputy Commissioner under this Act may, if he has duly tendered the same to the plaintiff before the institution of the suit, pay into Court such sum of money as he may consider to be due to the plaintiff, without paying in any costs incurred by the plaintiff up to the time of such payment; and such sum shall immediately be paid out of Court to the plaintiff.

(*2*) If, after such payment, the plaintiff elects to proceed with the suit, and ultimately obtains a decree for no more than was paid into Court, he may be charged with all costs of the suit incurred by the defendant; but, if the plaintiff ultimately obtains a decree for more than was paid into Court, the defendant may be charged with all costs of the suit.

Payment into Court by defendant, without prior tender to plaintiff.

**173.** (*1*) The defendant in any suit before the Deputy Commissioner under this Act may, without having tendered the same to the plaintiff before the institution of the suit, pay into Court such sum of money as he may consider to be due to the plaintiff, together with the costs (to be fixed by the Deputy Commissioner, if necessary, as upon a suit originally instituted for the amount so paid into Court) incurred by the plaintiff up to the time of such payment; and such sum shall immediately be paid out of Court to the plaintiff.

(*2*) If, after such payment, the plaintiff elects to proceed with the suit, and ultimately obtains a decree for no more than was paid into Court, he may be charged with all costs of the suit incurred by the defendant subsequently to such payment; but, if the plaintiff ultimately obtains a decree for more than was paid into Court, the defendant may be charged with costs as upon a suit originally instituted for the whole amount for which the plaintiff ultimately obtains a decree, but shall have credit thereout for the amount of costs paid into Court by him in the first instance.

Prohibition of interest on sums paid into Court.

**174.** From the date on which any sum is paid into Court by the defendant under section 172 or section 173, no interest shall be allowed to the plaintiff on such sum, whether it be in full satisfaction of his claim or falls short thereof.

Power to award damages to plaintiff in rent-suit.

**175.** (*1*) In any suit for rent under this Act, if it appears to the Deputy Commissioner that the defendant has, without reasonable or probable cause, neglected or refused to pay the amount due from him,

and that he has not, before the institution of the suit, tendered such amount to the plaintiff or his agent, or, in case of refusal of the plaintiff or such agent to receive the amount tendered, has not deposited such amount in the Court of the Deputy Commissioner under section 55 before the institution of the suit,

the Deputy Commissioner may, for reasons to be recorded in writing, award to the plaintiff, in addition to the amount decreed for rent and costs, such damages, not exceeding twenty-five *per centum* on the amount of rent decreed, as the Court may think fit, unless interest due under section 58 is decreed.

(*2*) Any damages so awarded, as well as the amount of rent and costs decreed in the suit, shall carry interest, from the date of decree until payment thereof, at such rate *per centum* as the Deputy Commissioner deems reasonable.

Power to award compensation to defendant in rent-suit.

**176.** In any suit for rent under this Act, if it appears to the Deputy Commissioner that the plaintiff has instituted the suit against the defendant without reasonable or probable cause,

or that the defendant, before the institution of the suit, duly deposited in the Court of the Deputy Commissioner, under section 55, the full amount which the Deputy Commissioner finds to have been due to the plaintiff at the date of such deposit,

the Deputy Commissioner may, for reasons to be recorded in writing, award to the defendant, by way of compensation, such sum, not exceeding twenty-five *per centum* on the whole amount claimed by the plaintiff, as the Deputy Commissioner may think fit.

Procedure where third party claims right to receive rent.

**177.** When, in any suit before a Deputy Commissioner under this Act between a landlord and a tenant, the right to receive the rent of the land or tenure cultivated or held by the tenant is disputed, and such right is claimed by or on behalf of a third person on the ground that such third person, or a person through whom he claims, has actually and in good faith received and enjoyed such rent before and up to the time of the institution of the suit,

such third person shall be made a party to the suit, and the question of the actual payment of the rent to such third person in good faith shall be inquired into, and the suit shall be decided according to the result of such inquiry:

Provided that such decision shall not affect the right of any party, who may have a legal title to such rent, to establish such title by suit in a Civil Court, if instituted within one year from the date of the decision.

Suit for ejectment of non-occupancy-raiyat or cancelment of lease of any tenant, for arrears of rent.

**178.** (*1*) Any landlord desiring to eject a non-occupancy-raiyat on the ground that he has failed to pay an arrear of rent, or to cancel the lease of any tenant on account of the non-payment of arrears of rent, may sue for such ejectment or cancelment and for the recovery of the arrears in the same suit, or may, in a suit for such ejectment or cancelment, adduce any unexecuted decree for arrears of rent as evidence of the existence of such arrears.

(*2*) In all cases of suits for the ejectment of a non-occupancy-raiyat for non-payment of arrears of rent, or for the cancelment of a lease for non-payment of arrears of rent, the decree shall specify the amount of the arrear; and if such amount, together with interest and costs of suit, be paid into Court within thirty days from the date of the final decree, the decree shall not be executed.

(*3*) The Deputy Commissioner may, for special reasons to be recorded in writing, extend the period of thirty days mentioned in sub-section (*2*).

Power of Deputy Commissioner to grant lease to raiyat in default of landlord.

**179.** If a decree is given for the grant of a lease to a raiyat, and the landlord fails, for a period of three months after the date of the decree, to grant such lease, the Deputy Commissioner may grant a lease, in conformity with the terms of the decree, under his own hand and seal; and such lease shall have the same force and effect as if granted by the landlord.

Procedure where tenant fails to deliver counterpart engagement to landlord.

**180.** If a decree is given for the delivery of a counterpart engagement by a tenant to a landlord, and the tenant fails, for a period of three months after the date of the decree, to deliver such counterpart, the decree shall be evidence of the amount of rent claimable from such tenant, and a copy of the decree under the hand and seal of the Deputy Commissioner shall have the same force and effect as a counterpart engagement delivered by the tenant to the landlord.

(*Sections 181—187.*)

*Execution of Decrees and Orders of the Deputy Commissioner.*

Limitation of time for application for execution.

**181.** No process of execution of any description whatsoever shall be issued on any decree or order passed by a Deputy Commissioner under this Act, except upon an application made within three years from—

(*a*) the date on which the decree or order is signed, or

(*b*) where there has been an appeal, the date of the final decree or order of the Appellate Court, or

(*c*) where there has been a review of judgment, the date of the decision passed on the review.

Decrees and orders by what Court to be executed.

**182.** A decree or order passed by a Deputy Commissioner under this Act may be executed either by his own Court or by any other prescribed Court.

Form of application for execution.

**183.** Every application for the execution of a decree or order passed by a Deputy Commissioner under this Act shall be in writing, shall be made in the prescribed form, and shall be verified by the applicant or his agent in the form provided in section 147.

Issue of process of execution.

**184.** Process of execution may be issued against either the person or the property of a judgment-debtor, but shall not be issued simultaneously against both person and property.

Form of warrant of execution against person or movable property.

**185.** Every warrant of execution against the person or movable property of a judgment-debtor shall be in the prescribed form.

Exemptions from attachment and sale.

**186.** The following particulars shall be exempt from attachment and sale in execution of any decree or order passed by a Deputy Commissioner under this Act, namely :—

(*a*) the necessary wearing apparel and bedding of the judgment-debtor, his wife and children;

(*b*) tools and implements of husbandry, and such cattle and seed grain as may, in the opinion of the Deputy Commissioner, be necessary to enable the judgment-debtor to earn his livelihood as an agriculturist;

(*c*) the materials of houses and other buildings belonging to and occupied by agriculturists;

(*d*) books of account;

(*e*) any right of personal service;

(*f*) stipends and gratuities allowed to military and civil pensioners of the Government, and political pensions;

(*g*) the wages of labourers and domestic servants;

(*h*) a right to future maintenance:

Provided that nothing in this section shall be deemed to exempt the materials of houses and other buildings from attachment or sale in execution of decrees for rent.

*Explanation.*—The particulars mentioned in clauses (*f*) and (*g*) are exempt from attachment or sale whether before or after they are actually payable.

Indication of movable property to be seized.

**187.** (*1*) Any moveable property required to be seized under a warrant of execution shall, if practicable, be described in a list to be furnished by the judgment-creditor; but, if the creditor is unable to furnish such list, he may apply for a general seizure of the debtor's effects to the amount of the judgment and costs.

*(Sections 188—192.)*

(2) In either case, the property to be seized shall be pointed out by the creditor or his agent to the officer entrusted with the execution of the warrant.

Duration of warrant of execution.

**188.** Every warrant of execution shall bear the date of the day on which it is signed by the Deputy Commissioner, and shall continue in force for such period as the Deputy Commissioner may direct, not being more than sixty days from such date.

Second and successive warrants of execution.

**189.** Second and successive warrants of execution may be issued, by order of the Deputy Commissioner, on the application of the judgment-creditor, after the expiration of the period fixed for the continuance in force of a previous warrant.

Notice when to be given before issue of warrant of execution.

**190.** (1) A warrant of execution shall not be issued upon any decree or order without previous notice to the party against whom execution is applied for, if, when application for the issue of the warrant is made, a period of more than one year has elapsed from the date of the decree or order, or from the date of the last previous application for execution.

(2) A warrant of execution shall not be issued against the heir or other representative of a deceased party without previous notice to such representative to appear and be heard.

Procedure when judgment-debtor is arrested.

**191.** (1) If a warrant is issued against the person of a judgment-debtor, the officer charged with the execution of the warrant shall bring him with all convenient speed before the Deputy Commissioner.

(2) If the decree in execution of which the judgment-debtor was arrested is a decree for money, and if he does not immediately deposit in Court the full amount specified in the warrant, or make arrangements, satisfactory to the judgment-creditor, for the payment of the same, or satisfy the Deputy Commissioner that he has no present means of paying the same,

the Deputy Commissioner shall send him to the civil jail, there to remain for such time as may be directed by warrant addressed to the keeper of the jail, unless in the meantime he pays the said amount:

Provided that no judgment-debtor shall be imprisoned in execution of a decree under this Act for a longer period than six months or (if the decree is for the payment of a sum of money not exceeding fifty rupees) six weeks.

(3) If the decree in execution of which the judgment-debtor was arrested is a decree for the delivery of papers or accounts, and if the papers or accounts are not immediately delivered by him to the Deputy Commissioner,

the Deputy Commissioner may commit him to the civil jail, there to remain for such time, not exceeding six months, as the Deputy Commissioner may direct, unless in the meantime he delivers the papers or accounts according to the terms of the decree.

Further proceedings after discharge from jail.

**192.** (1) When any judgment-debtor has been discharged from the civil jail, he shall not be imprisoned a second time under the same decree or order.

(*2*) If the amount due under such decree or order does not exceed fifty rupees, the Deputy Commissioner may declare such discharged person to be absolved from liability thereunder.

(*3*) In other cases the discharge shall not extinguish the liability of the discharged person under such decree or order, or exempt property belonging to him from attachment in execution thereof.

Diet-money for subsistence of prisoners.

**193.** (*1*) Any person who applies for a warrant of execution against the person of a judgment-debtor shall deposit in Court, at the time of the issue of the warrant, diet-money for thirty days, at such rate as the Deputy Commissioner may direct, for the subsistence of the prisoner.

(*2*) The said person shall also pay diet-money, at the same rate, before the commencement of each succeeding month of the imprisonment; and, if he fails to make any such payment, the prisoner shall be discharged.

(*3*) All diet-money spent in providing subsistence for any prisoner shall be added to the costs in the suit; and any diet-money not so spent shall be returned to the person who paid it.

Execution of decree or order for ejectment or re-instatement of cultivator.

**194.** (*1*) If the decree or order is for the ejectment of any cultivator from land occupied by him, or for the re-instatement of any cultivator in the occupancy of land from which he has been ejected, the decree or order shall be executed by giving the possession or occupancy of the land to the person entitled by the decree or order to such possession or occupancy.

(*2*) If any opposition to the execution of the order for giving such possession or occupancy is made by the party against whom the order is made, the Deputy Commissioner shall, in the exercise of his powers as a Magistrate, give effect to the order.

Execution of decree or order for cancelment of lease, for ejectment, or for re-instatement of tenant not being an actual cultivator.

**195.** If the decree or order is for the cancelment of any lease or the ejectment of any tenant (not being an actual cultivator), or for the re-instatement of any tenant (not being an actual cultivator) in the possession of a tenancy from which he has been ejected, the decree or order shall be executed—

(*a*) by proclaiming its substance to the cultivators or other occupants of the tenancy by beat of drum, or

(*b*) by notification reciting the substance of the decree or order and affixed in some conspicuous place within, or adjacent to, the tenancy, or

(*c*) in such other manner as may be prescribed.

Execution of decree for rent given in favour of sharer in undivided estate or tenure.

**196.** If a decree is given by the Deputy Commissioner under this Act, in favour of a sharer in a joint undivided estate or tenure, for money due to him on account of his share of the rent of any tenure comprised in such undivided estate or tenure,

application for the sale of such tenure shall not be received unless execution has first been taken out against any movable property which the judgment-debtor may possess within the district in which the suit was instituted, and unless the sale of such property (if any) has proved insufficient to satisfy the decree;

and such tenure may then, with the previous sanction of the Commissioner, but not otherwise, be sold, in execution of the decree, in the manner in which any other immovable property may be sold in execution of a decree for money under the provisions of clause (*b*) of section 210.

(*Sections 197—203.*)

Execution of rent decree obtained by a co-sharer landlord.

**197.** When one or more co-sharer landlords applies or apply for the execution of a decree obtained in a suit instituted under clause (*b*) of section 142, by the sale of a tenure or holding, the Court executing such decree shall, before proceeding to sell the tenure or holding, give notice of the application for execution to the other co-sharers.

Execution against immovable property in certain cases, if judgment not satisfied.

**198.** In the execution of any decree or order by the Deputy Commissioner under this Act for the payment of money, not being money due or recoverable as an arrear of rent,

if satisfaction of the decree or order cannot be obtained by execution against the person or movable property of the debtor within the district in which the suit was instituted,

the judgment-creditor may apply for execution against any immovable property belonging to such debtor;

and such immovable property may, with the sanction of the Commissioner, but not otherwise, be brought to sale in the manner provided in clause (*b*) of section 210.

*Sales in Execution of Decrees of the Deputy Commissioner.*

Notification of intended sale of movable property, and custody of property.

**199.** (*1*) For the purpose of executing a warrant of execution issued by the Deputy Commissioner under this Chapter against the movable property of a judgment-debtor, the officer charged with the execution of the warrant shall prepare a list of the property pointed out by the judgment-creditor; and shall publish a proclamation specifying the day upon which the sale is intended to be held, and a copy of the said list, at the intended place of sale and at the residence of the debtor.

(*2*) A copy of the said list and proclamation shall be transmitted to the Deputy Commissioner, and shall be affixed in his office.

(*3*) Until the day of sale, the said property shall remain in the custody of the officer executing the warrant.

Interval between seizure and sale.

**200.** No sale of any movable property (other than perishable property) seized in execution under this Chapter shall be made until the expiration of a period of ten days after the day on which the property was so seized.

Place and manner of sale.

**201.** (*1*) Such sale shall be held at the place where the property is deposited, or at the nearest market or other place of public resort if the officer executing the warrant thinks it is likely to sell there to better advantage.

(*2*) The property shall be sold by public auction, in one or more lots as the officer executing the warrant may think advisable; and if the judgment-debt, and the costs of the execution and sale, are realised by the sale of a portion of the property, the execution shall immediately be withdrawn with respect to the remainder.

Prohibition of purchase by officers.

**202.** Officers executing warrants for the sale of property under this Chapter, and all persons employed by, or subordinate to, such officers, are prohibited from purchasing, either directly or indirectly, any property sold by such officers.

Postponement of sale if fair price be not offered.

**203.** If, on the property being put up for sale, no price which the officer executing the warrant considers fair is offered for it, and the owner of the property, or some person authorized to act on his behalf, applies to have the sale postponed until the next day, or the next market day if a market be held at the place of sale or in the vicinity, the sale shall be postponed until such day, and shall then be completed at whatever price may be offered for the property.

(*Sections 204—208.*)

Payment of purchase-money, and delivery of property to purchaser.

**204.** (*1*) The price of every lot shall be paid at the time of sale, or as soon thereafter as the officer executing the warrant may direct; and, in default of such payment, the property shall again be put up and sold.

(*2*) When the purchase-money has been paid in full, the officer executing the warrant shall deliver the property to the purchaser, with a certificate describing the property and stating the price paid.

Application of proceeds of sale.

**205.** (*1*) From the proceeds of the sale, the officer executing the warrant shall make a deduction, at the rate of one anna in the rupee, on account of the costs of the sale, and shall transmit the amount so deducted to the Deputy Commissioner in order that it may be credited to the Government.

(*2*) The said officer shall deal with the rest of the proceeds in the prescribed manner.

Procedure where third party claims interest in property seized.

**206.** (*1*) If, before the day fixed for the sale, a third party appears before the Deputy Commissioner and claims a right or interest in any of the movable property seized in execution, the Deputy Commissioner shall examine such party or his agent according to the law for the time being in force relating to the examination of witnesses; and, if he sees sufficient reason for so doing, may stay the sale of such property.

(*2*) The Deputy Commissioner shall, after taking evidence, adjudicate upon such claim, and shall make such order thereupon as he thinks fit.

(*3*) If the claimant fails to establish his right to the property seized in execution, the Deputy Commissioner may, by his order under sub-section (*2*), award to the judgment-creditor against the claimant, in addition to the costs of the proceedings, such sum as the Deputy Commissioner may consider sufficient to cover any loss of interest or any other damage which the judgment-creditor has sustained by reason of the postponement of the sale.

(*4*) The party against whom any order is passed by the Deputy Commissioner under this section may, at any time within one year from the date of the order, bring a suit in the Civil Court to establish his right:

Provided that, if the property has been sold, the suit shall not be for the recovery of the property, but for damages against the judgment-creditor by whom the property was brought to sale.

Irregularities not to vitiate sale.

**207.** No irregularity in publishing or conducting a sale of movable property under a warrant of execution issued under this Chapter shall vitiate such sale; but nothing contained in this section shall bar any person who sustains damage by reason of any such irregularity from recovering damages by suit in the Civil Court, if instituted within one year from the date of the sale.

Sale of tenure or holding in execution of decree for arrears of rent.

**208.** (*1*) When a decree passed by the Deputy Commissioner under this Act is for an arrear of rent due in respect of a tenure or holding, the decree-holder may apply for the sale of such tenure or holding, and the tenure or holding may thereupon be brought to sale, in execution of the decree, according to the provisions for the sale of under-tenures contained in the Bengal Rent Recovery (Under-tenures) Act, 1865; and all the provisions of that Act, except sections 12, 13, 14 and 15 thereof, shall, as far as may be, apply to such sale: Ben. VIII of 18

Provided that the purchaser of a tenure at any such sale shall not be entitled to annul any lease, right or tenancy referred to in clauses (*a*) to (*e*) of section 14 of this Act:

Provided also that the Commissioner may, by order, in any case in which he may consider it desirable so to do,—

(*a*) prohibit the sale of any tenure or portion thereof, or

(*b*) stay any such sale for any period specified in the order:

Provided also that any sale of a resumable tenure under this section shall not affect the right of the grantor or his successor in title to resume such tenure, but shall be made subject to such right.

(*Sections 209, 210.*)

(*2*) When a warrant of execution has been issued under this Chapter against the person or movable property of the judgment-debtor, no application shall be received under sub-section (*1*) while such warrant remains in force.

Disposal of proceeds of sale under section 208.

**209.** (*1*) In disposing of the proceeds of the sale of a tenure or holding under section 208, the following procedure shall be observed, that is to say:—

(*a*) there shall be paid to the decree-holder the costs incurred by him in bringing the tenure or holding to sale;

(*b*) there shall, in the next place, be paid to the decree-holder the amount due to him under the decree in execution of which the sale was made;

(*c*) if there remains a balance after those sums have been paid, there shall be paid to the decree-holder therefrom any rent which may have accrued due to him in respect of the tenure or holding between the institution of the suit and the date of the sale; and

(*d*) the balance (if any) remaining after the payment of rent referred to in clause (*c*) shall, upon the expiration of two months from the confirmation of the sale, be paid to the judgment-debtor upon his application:

Provided that, where a tenure or holding has been sold in execution of a decree obtained one or more co-sharer landlords in a suit instituted under clause (*b*) of section 142,—

(*i*) payment of the amount due under such decree shall, notwithstanding anything contained in clause (*b*) of this section, be made to the decree-holder and to the other co-sharer landlords in proportion to the amount found to be due to each, and

(*ii*) if there remains a balance, payment of any rent which may have accrued due in respect of the tenure or holding between the institution of the suit and the date of sale shall, notwithstanding anything contained in clause (*c*), but subject to the determination, in the manner and with the effect mentioned in sub-section (*2*), of any dispute as to their respective rights to receive such rent, be made to the said decree-holder and other co-sharer landlords in proportion to their respective shares in the tenure or holding.

(*2*) If the judgment-debtor disputes the decree-holder's right to receive any sum on account of rent under clause (*c*), the Deputy Commissioner shall determine the dispute, and the determination shall have the force of a decree.

Sale of other property in execution of decree for arrears of rent of tenure or holding.

**210.** (*1*) If, after the sale of a tenure or holding in pursuance of section 208, any portion of the amount decreed remains due, process may be applied for against any other property, movable or immovable, belonging to the judgment-debtor.

(*2*) Notwithstanding anything contained in sub-section (*1*), a decree-holder may, with the permission of the Deputy Commissioner, granted for reasons to be recorded in writing, proceed against any other property, movable or immovable, of the judgment-debtor, without first making application for the sale of the tenure or holding in respect of which the arrear has accrued.

(*3*) Property referred to in sub-sections (*1*) and (*2*) may be brought to sale—

(*a*) if movable, in the manner provided in sections 199 to 205, and

(*b*) if immovable, in the manner provided in sections 237, 238, 274 to 276, 278 to 284, 286, 287, 289 to 294, 305 to 310, 312 to 316, 318, 319, 334 and 335 of the Code of Civil Procedure. XIV of 1882.

(*Sections 211—213.*)

Procedure where third party claims to be in lawful possession of tenure or holding.

**211.** (*1*) If, before the day fixed for the sale of any tenure or holding in pursuance of section 208, a third party appears before the Deputy Commissioner and alleges that he, and not the person against whom the decree has been obtained, was in lawful possession of, or had some interest in, the tenure or holding when the decree was obtained,

the Deputy Commissioner shall examine such party according to the law for the time being in force relating to the examination of witnesses; and if he sees sufficient reason for so doing, and if such party deposits in Court or gives security for the amount of the decree, the Deputy Commissioner shall stay the sale, and shall, after taking evidence, adjudicate upon the claim:

Provided that no such adjudication shall be made if the Deputy Commissioner considers that the claim was designedly or unnecessarily delayed:

Provided also that no transfer of a tenure shall be recognised unless it has been registered in the office of the landlord or sufficient cause for non-registration is shown to the satisfaction of the Deputy Commissioner.

(*2*) The party against whom judgment is given by the Deputy Commissioner under sub-section (*1*) may, at any time within one year from the date of the judgment, bring a suit in the Civil Court to establish his right.

Application to set aside sale of immovable property, on deposit of debt and compensation to purchaser.

**212.** (*1*) When any immovable property has been sold under this Chapter in execution of a decree, any person who owned such property immediately before the sale, or who claims an interest therein under a title lawfully acquired before the sale, may, at any time within a period of thirty days from the date of the sale, apply to have the sale set aside on his depositing in the Court of the Deputy Commissioner,—

(*a*) for payment to the purchaser—a sum equal to five *per centum* of the purchase-money, and

(*b*) for payment to the decree-holder—the amount specified in the proclamation of sale as that for the recovery of which the sale was ordered, less any amount which may, since the date of such proclamation and sale, have been received by the decree-holder:

Provided that, if a person applies under section 213 to set aside the sale of his immovable property, he shall not be entitled to make an application under this section.

(*2*) If the said deposits are made within the said period, the Court shall pass an order setting aside the sale, and the provisions of section 315 of the Code of Civil Procedure shall apply in the case of a sale so set aside. XIV of 18

Application to set aside sale of immovable property on ground of irregularity.

**213.** (*1*) When any immovable property has been sold under this Chapter in execution of a decree, the decree-holder or the person who owned such property immediately before the sale may apply to the Deputy Commissioner to set aside the sale on the ground of a material irregularity in publishing or conducting it; but no sale shall be set aside on the ground of irregularity unless the applicant proves to the satisfaction of the Deputy Commissioner that he has sustained substantial injury by reason of such irregularity:

Provided that, if a person applies under section 212 to set aside the sale of his immovable property, he shall not be entitled to make an application under this section.

(*2*) If an application be made under this section, and if the objection be allowed, the Deputy Commissioner shall pass an order setting aside the sale.

(*Sections 214—219.*)

Grounds on which suit or application to set aside sale may be brought.

**214.** No suit or application shall be entertained in any Court to set aside, or to modify the effect of, any sale made under this Chapter, save under section 212 or section 213 or on the ground of fraud or want of jurisdiction.

## *Appeals.*

Appeal from orders of Deputy Commissioners.

**215.** (*1*) All orders passed by a Deputy Commissioner under the foregoing provisions of this Act, not being—

(*a*) judgments in suits, or

(*b*) orders passed in the course of suits and relating to the trial thereof, or

(*c*) orders passed after decree and relating to the execution thereof, or

(*d*) orders passed under section 206 or section 211,

shall be appealable—

(*i*) to the Commissioner, or

(*ii*) if passed by a Deputy Collector exercising powers of a Deputy Commissioner—to the Deputy Commissioner.

(*2*) No judgment of a Deputy Commissioner in any suit, and no order of a Deputy Commissioner passed in any suit and relating to the trial thereof, or after decree and relating to the execution thereof, shall be open to revision or appeal otherwise than as expressly provided in this Act.

(*3*) Orders passed after decree and relating to the execution thereof (except orders passed under section 206 or section 211 of this Act or under section 280, section 281 or section 282 of the Code of Civil Procedure) shall be appealable to the Court to which an appeal from the decree itself would lie. XIV of 1882.

Limitation of appeals from such orders.

**216.** Every appeal under section 215 shall be presented to the Commissioner or the Deputy Commissioner, as the case may be, within thirty days from the date of the order.

Bar to further appeals, with proviso for revision by Board or Commissioner.

**217.** Orders passed by the Commissioner or Deputy Commissioner in appeals preferred under section 215 shall not be open to any further appeal; but the Board or (in the case of appeals decided by the Deputy Commissioner) the Commissioner may call for any case and pass such orders thereon as it or he may think proper.

Appeal in certain suits.

**218.** (*1*) In suits referred to in clause (*3*) or clause (7) of section 139, tried and decided by a Deputy Commissioner, if the amount sued for, or the value of the property claimed, does not exceed one hundred rupees, the judgment of the Deputy Commissioner shall be final, and not open to revision or appeal except as provided in sub-section (*2*), unless in any such suit a question relating to a title to land, or to some interest in land, as between parties having conflicting claims thereto, has been determined by the judgment, in which case the judgment shall be open to appeal in the manner provided in section 224.

(*2*) When any such suit in which, if tried and decided by a Deputy Commissioner, the judgment of the Deputy Commissioner would be final, is tried and decided by a Deputy Collector, an appeal from the judgment of the Deputy Collector shall lie to the Deputy Commissioner.

Appeal to Deputy Commissioner when to be presented.

**219.** Every petition of appeal to the Deputy Commissioner under section 218, sub-section (*2*), shall be presented within thirty days from the date on which the decree appealed against was signed.

(*Sections 220—225.*)

Appeal when to be heard.

**220.** (*1*) The Deputy Commissioner or the Commissioner, as the case may be, shall fix a day for hearing the appeal, and shall cause notice of the same to be served on the respondent.

(*2*) If, on the day fixed for hearing the appeal, or on any other day to which the hearing may be adjourned, the appellant does not appear in person or by agent, the appeal shall be dismissed for default.

(*3*) If on such day the appellant appears and the respondent does not appear in person or by agent, the appeal shall be heard *ex parte*.

Re-admission of appeal.

**221.** If an appeal is dismissed for default of prosecution, the appellant may, within thirty days from the date of the dismissal, apply to the Deputy Commissioner or the Commissioner, as the case may be, for the re-admission of the appeal; and, if it is proved to the satisfaction of the Deputy Commissioner or the Commissioner, as the case may be, that the appellant was prevented by any sufficient cause from appearing when the appeal was called on for hearing, the Deputy Commissioner or the Commissioner, as the case may be, may re-admit the appeal.

Re-hearing of appeal on application of respondent against whom *ex parte* decree passed.

**222.** When an appeal is heard *ex parte* in the absence of the respondent, and judgment is given against him, he may apply to the Appellate Court to re-hear the appeal; and, if he satisfies the Court that notice was not duly served or that he was prevented by sufficient cause from attending when the appeal was called on for hearing, the Court may re-hear the appeal on such terms as to costs or otherwise as the Court thinks fit to impose upon him.

Judgment in appeal.

**223.** After hearing the appeal, the Deputy Commissioner or the Commissioner, as the case may be, shall give judgment in the manner provided in section 170 for giving judgment in original suits.

Appeal to Judicial Commissioner or High Court.

**224.** (*1*) In all suits before a Deputy Commissioner under this Act, except—

(*a*) suits in which, when tried and decided by a Deputy Commissioner, the judgment of the Deputy Commissioner is declared by section 218, sub-section (*1*), to be final, and

(*b*) suits in which, when tried and decided by a Deputy Collector, an appeal is allowed by section 218, sub-section (*2*), to the Deputy Commissioner,

an appeal from the judgment of the Deputy Commissioner or Deputy Collector shall lie to the Judicial Commissioner, unless the amount or value in dispute exceeds five thousand rupees, in which case the appeal shall lie to the High Court.

(*2*) A second appeal shall lie to the High Court, under Chapter XLII of the Code of Civil Procedure, from any appellate decree passed by the Judicial Commissioner under this Chapter, or from any order passed by him on appeal under section 215, sub-section (*3*). XIV of 188

Hearing of appeals by Judicial Commissioner, instead of by Deputy Commissioner.

**225.** (*1*) Where, in analogous suits, some appeals have been presented to the Deputy Commissioner and others to the Judicial Commissioner, the Judicial Commissioner may, on the application of any of the parties, transfer to his own Court the appeals pending in the Court of the Deputy Commissioner.

(*2*) Where, in analogous suits, some appeals lie to the Deputy Commissioner and others to the Judicial Commissioner, a plaintiff or defendant whose appeal would ordinarily lie to the Deputy Commissioner may, if an appeal in any such suit has been presented by any other plaintiff or defendant to the Judicial Commissioner and admitted, present his appeal to the Judicial Commissioner instead of to the Deputy Commissioner, and the Judicial Commissioner may hear and decide the same.

(*Sections 226—235.*)

Limitation of appeal to Judicial Commissioner or High Court.

**226.** Appeals to the Judicial Commissioner or to the High Court under this Chapter shall be presented within the time provided for the presentation of appeals to a District Judge or the High Court, as the case may be, under the Code of Civil Procedure by the law for the time being in force for the limitation of appeals. XIV of 1882.

Power to set aside judgment or order passed *ex parte* by default.

**227.** (*1*) No appeal by a plaintiff or defendant shall lie from a judgment or order passed against him by default for non-appearance, whether such judgment or order were given under section 155, section 156, section 157 or section 169.

(*2*) If the party against whom any such judgment or order has been given appears, either in person or by agent,—

(*a*) if a plaintiff, within thirty days from the date of the Deputy Commissioner's order, and,

(*b*) if a defendant, within thirty days after any process for enforcing the judgment has been executed,

or at any earlier period, and shows sufficient cause for his previous non-appearance, and satisfies the Deputy Commissioner that there has been a failure of justice, the Deputy Commissioner may, upon such terms and conditions as to costs or otherwise as he may think proper, revive the suit and set aside the judgment or order.

(*3*) No judgment or order shall be altered or set aside under sub-section (*2*) without previously summoning the opposite party to appear and be heard in support of it.

Order to set aside judgment final, but rejection of application to set aside appealable.

**228.** In all cases in which the Deputy Commissioner, under section 227, passes an order setting aside a judgment or order, the order shall be final; but, in all appealable cases in which the Deputy Commissioner, under that section, rejects an application for setting aside a judgment or order, an appeal shall lie from the order of rejection to the tribunal to which the final decision in the suit would be appealable, provided that the appeal be preferred within the time allowed for an appeal from such final decision.

Application of section 561 of the Code of Civil Procedure.

**229.** The provisions of section 561 of the Code of Civil Procedure shall, so far as applicable, apply to all appeals under this Act from decisions of the Deputy Commissioner. XIV of 1882.

## CHAPTER XVII.

### LIMITATION.

Application of the Indian Limitation Act, 1877.

**230.** The provisions of the Indian Limitation Act, 1877, shall, so far as they are not inconsistent with this Act, apply to all suits, appeals and applications under this Act. XV of 1877.

General rule of limitation.

**231.** All suits and applications instituted or made under this Act, for which no period of limitation is provided elsewhere in this Act, shall be commenced and made respectively within one year from the date of the accruing of the cause of action:

Provided that there shall be no period of limitation for applications under section 28, 31, 34, 50, 61, 75, 105 or 121.

Limitation of suits and applications for grant of leases, etc.

**232.** Suits and applications for the delivery of leases or counterpart engagements, or for the determination of the rates of rent payable for lands held by a tenant, may be instituted and made, respectively, at any time during the tenancy.

Limitation of certain suits for ejectment.

**233.** Suits for the ejectment of an occupancy-raiyat or a non-occupancy-raiyat on any of the grounds mentioned in section 22 or in clauses (*b*) and (*c*) of section 41 shall be instituted within two years from the date of the misuse or breach complained of.

Limitation of suits and applications for arrears of rent.

**234.** Suits, and applications under section 244, for the recovery of arrears of rent, shall be instituted within three years from the end of the agricultural year in which the arrear became due.

Successive suits or applications for recovery of rent.

**235.** (*1*) Where a landlord has instituted a suit against a tenant or applied for a certificate under section 240 against a Mundari khunt-kattidar, for the recovery of any rent of his tenancy, the landlord shall not institute another suit or apply for another such certificate against him for the recovery of any rent of that tenancy until after six months from the date of the institution or making of the previous suit or application.

(*Sections 236—240.*)

(*2*) Nothing in sub-section (*1*) shall prohibit a fresh suit for rent when a former suit has been withdrawn with leave to sue again, or when a claim has been rejected under section 154, or when a case has been struck off under section 155 or section 169.

Limitation of suits against agents for money, accounts or papers.

**236.** Suits for the recovery of money in the hands of an agent, or for the delivery of accounts or papers by an agent, may be brought at any time during the agency, or within one year after the determination of the agency, of such agent:

Provided that, if the person having the right to sue has, by fraud, been kept from knowledge of the receipt of any such money by the agent, or if any fraudulent account has been rendered by the agent, the suit may be brought within one year from the time when the fraud first became known to such person; but no such suit shall in any case be brought at any time exceeding three years from the termination of the agency.

Limitation of applications for recovery of possession of holding.

**237.** Applications for the recovery of possession of a holding, or any portion thereof, from which an occupancy-raiyat has been unlawfully ejected must be instituted within three years from the date of such ejectment.

Limitation of suits or applications by village headmen for recovery of possession.

**238.** Suits or applications for recovery of possession of his office or agricultural land by a headman of a village or group of villages, whether known as manki or pradhan or manjhi or otherwise, against a landlord or any person holding by virtue of any assignment from a landlord, must be instituted or made within three years from the date of dispossession.

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## CHAPTER XVIII.

### SPECIAL PROVISIONS WITH RESPECT TO MUNDARI KHUNT-KATTIDARS.

Application of preceding sections to Mundari khunt-kattidari tenancies.

**239.** Such of the preceding sections as are applicable to Mundari khunt-kattidars shall, in their application to such persons and their tenancies, be read subject to the provisions of the following sections in this Chapter.

Restrictions on transfer of Mundari khunt-kattidari tenancies.

**240.** (*1*) No Mundari khunt-kattidari tenancy or portion thereof shall be transferable by sale, whether in execution of a decree or order of a Court or otherwise:

Provided that, when a decree or order has been made by any Court for the sale of any such tenancy or portion thereof, in satisfaction of a debt due under a mortgage (other than a usufructuary mortgage) which was registered before the commencement of the Chota Nagpur Tenancy (Amendment) Act, 1903, the sale may be made with the previous sanction of the Deputy Commissioner. Ben. Act V of 1903.

(*2*) If the Deputy Commissioner refuses to sanction the sale of any such tenancy or portion thereof under the proviso to sub-section (*1*), he shall attach the land and make such arrangements as he may consider suitable for liquidating the debt.

(*3*) No mortgage of a Mundari khunt-kattidari tenancy or any portion thereof shall be valid, except a bhugut bandha mortgage for a period, expressed or implied, which does not exceed or cannot in any possible event exceed seven years.

(*4*) No lease of a Mundari khunt-kattidari tenancy or any portion thereof shall be valid, except a lease of one or other of the following kinds, namely:—

(*a*) mukarari leases of uncultivated land, when granted to a Mundari or a group of Mundaris for the purpose of enabling the lessees or the male members of their families to bring suitable portions of the land under cultivation;

(*b*) leases of uncultivated land, when granted to a Mundari cultivator to enable him to cultivate the land as a raiyat.

(*Sections 241—243.*)

*Explanation.*—The expression "uncultivated land," as used in this sub-section, includes land which, though formerly cultivated, is not, at the time the lease is granted, either under cultivation or in the occupation of the lessee for purposes of cultivation.

(5) Where a Mundari khunt-kattidari tenancy is held by a group of Mundari khunt-kattidars, no bhugut bandha mortgage or mukarari lease of the tenancy or any portion thereof shall be valid, unless it is made with the consent of all the Mundari khunt-kattidars.

(6) No transfer of a Mundari khunt-kattidari tenancy or any portion thereof, by any contract or agreement made otherwise than as provided in the foregoing sub-sections, shall be valid; and no such contract or agreement shall be registered.

(7) Nothing in the foregoing sub-sections shall affect any sale or, except as declared in the proviso to sub-section (1), any mortgage, or any lease, made before the commencement of the Chota Nagpur Tenancy (Amendment) Act, 1903. Ben. Act V of 1903.

Transfer for certain purposes.

**241.** (1) Notwithstanding anything contained in section 240, a Mundari khunt-kattidar may, without the consent of his landlord, transfer the land comprised in his tenancy, or any part thereof, for any reasonable and sufficient purpose having relation to the good of the tenancy or of the tenure or estate in which it is comprised, such as the use of the land for any charitable, religious or educational purpose or for the purposes of manufacture or irrigation, or as building ground for any such purpose, or for access to land used or required for any such purpose:

Provided that the transfer shall be made by registered deed, and that, before the deed is registered and the land transferred, the written consent of the Deputy Commissioner shall be obtained to the terms of the deed and to the transfer.

(2) Before consenting to any such transfer, the Deputy Commissioner shall satisfy himself that the landlord and other co-sharers in the tenancy are adequately compensated for the loss (if any) caused to them by the transfer; and, where only part of the land comprised in the tenancy is transferred, may, if he thinks fit, apportion between the transferee and the original tenant all dues payable for the tenancy.

(3) An appeal against any order of a Deputy Commissioner consenting or refusing to consent to any such transfer shall lie as provided in Chapter XVI.

Ejectment of persons unlawfully obtaining possession of such tenancies.

**242.** If any person obtains possession of a Mundari khunt-kattidari tenancy or any portion thereof in contravention of the provisions of section 240, the Deputy Commissioner may eject him therefrom;

and if the tenancy was, before such possession was obtained, entered as a Mundari khunt-kattidari tenancy in a record-of-rights finally published under this Act or under any law in force before the commencement of this Act, no suit shall be maintainable in any Court in respect of such ejectment; but an appeal shall lie as provided in Chapter XVI.

Enhancement of rent.

**243.** (1) The rent of a Mundari khunt-kattidari tenancy may be enhanced only—

(*a*) by an order of the Deputy Commissioner, and

(*b*) if it be shown before the Deputy Commissioner that the tenancy was created within a period of twenty years immediately preceding the presentation of the petition for enhancement.

(2) An order of the Deputy Commissioner under sub-section (1) shall not enhance the rent of any such tenancy to an amount which would exceed one-half of the rent which would be payable for the land if it were held by a raiyat having a right of occupancy therein.

(*Section 244.*)

(*3*) The provisions of sections 28 to 30 shall be applicable to proceedings for the enhancement of the rent of a Mundari khunt-kattidari tenancy.

Recovery of arrears of rent under the certificate procedure, where there is a record-of-rights.

**244.** (*1*) When an arrear of rent accrues in respect of a Mundari khunt-kattidari tenancy for which a record-of-rights has been prepared under this Act or under any law in force before the commencement of this Act,

no suit shall be maintainable in any Court for the recovery of the arrear; but the landlord may apply in writing to the Deputy Commissioner to make a certificate authorizing the recovery thereof, with simple interest not exceeding twelve-and-a-half, or (in the case of money recoverable under the Cess Act, 1880,) at twelve-and-a-half, *per centum per annum*, under the Public Demands Recovery Act, 1895. Ben. Act IX of 1880. Ben. Act I of 1895.

(*2*) Upon receiving any such application, the Deputy Commissioner may, after making such inquiry and taking such evidence as he may consider necessary, make a certificate as aforesaid.

(*3*) The person in whose favour any such certificate is made shall be deemed to be the decree-holder for the amount mentioned in the certificate, and the person against whom the certificate is made shall be deemed to be the judgment-debtor for the said amount; and all proceedings taken by the Certificate Officer for the recovery of such amount shall be taken at the instance of the first-mentioned person, and at his cost and on his responsibility, and not otherwise.

(*4*) Every such certificate shall have the same effect as a certificate made under section 7 of the said Public Demands Recovery Act, 1895; and the following portions of that Act shall be applicable, namely, the proviso to section 7, sub-section (*1*); section 9, sub-sections (*2*) and (*3*); section 10, sub-section (*1*); and sections 11 to 14, 18, 19, 22 and 24 to 33: Ben. Act I of 1895.

Provided as follows:—

(*a*) subject to the provisions of section 248, a certificate made under this section may be enforced only by the attachment and sale of the movable property of the person against whom the certificate is made, or by the attachment and realisation of rent or other debts due to him, or by execution against his person in the manner provided by Chapter XVI, or by any two or more of these processes; and

(*b*) no objection by any third person to the attachment or sale of crops shall be entertained, except—

(*i*) an objection, by a mortgagee holding under a bhugut bandha mortgage, that the judgment-debtor has other movable property or assets from which the sum due can be realised; or

(*ii*) an objection, by a lessee holding under a mukarari lease as described in section 240, clause (*a*), that the land in respect of which the arrear accrued is included in his lease, and that the judgment-debtor has other movable property or assets from which the sum due can be realised; or

(*iii*) an objection, by a cultivator, that he is in possession of the land in respect of which the arrear accrued, that the land is recorded in the record-of-rights as being in the possession of himself or of some person from whom he has lawfully acquired such possession, and that the judgment-debtor has other movable property or assets from which the sum due can be realised; or

(*iv*) an objection, by such third person, that the land on which such crops were or are standing is entered in the record-of-rights as being in the possession of himself or of some person from whom he has lawfully acquired possession, and that such land does not form part of the tenancy in respect of which the certificate was made.

(*5*) The provisions of sections 181 to 207 shall, so far as they may be applicable, apply to proceedings under sub-section (*4*).

(*6*) If no appeal is presented under section 32 of the Public Demands Recovery Act, 1895, or if any such appeal is decided against the judgment-debtor, the certificate shall become absolute, and shall have the same force and effect as a final decree of a Civil Court. Ben. Act 1 of 1895.

(*7*) Notwithstanding anything hereinbefore contained, the Deputy Commissioner may, in any case, by written order setting forth the reasons therefor, refuse to make a certificate as aforesaid, or stay for any specified period the execution of any certificate which has been made.

(*8*) An appeal from any order made under sub-section (*7*) shall lie as provided in Chapter XVI.

Reference of question of title to Civil Court.

**245.** If, in the course of any proceedings under section 244, any question of title is raised which could, in the opinion of the Deputy Commissioner, more properly be determined by a Civil Court, the Deputy Commissioner shall refer such question to the principal Civil Court in the district for determination.

Recovery of arrear of rent by suit where there is no record-of-rights.

**246.** (*1*) When an arrear of rent accrues in respect of a Mundari khunt-kattidari tenancy for which no record-of-rights has been prepared, the landlord may institute a suit for the recovery of the arrear.

(*2*) Subject to the provisions of section 248, a decree or order made in any such suit may be enforced only by the attachment and sale of the movable property of the defendant, or by the attachment and realisation of rent or other debts due to him, or by execution against his person in the manner provided by Chapter XVI, or by any two or more of these processes.

Joinder of parties in proceedings under section 244 or 246.

**247.** Where a Mundari khunt-kattidari tenancy is held jointly by a group of khunt-kattidars,

and an objection to the making of a certificate under section 244, or to the execution thereof, or to the maintenance of a suit under section 246, is made on the ground that all the khunt-kattidars have not been made parties to the proceedings,

the objection shall not be entertained if it be shown that other khunt-kattidars could not be made parties without undue delay or expense.

Recovery of money due to the Government or rent due to a landlord.

**248.** Where a decree, or a certificate under the Public Demands Recovery Act, 1895, has been made against a Mundari khunt-kattidar for any money due to the Government or for rent due to a landlord, the Deputy Commissioner may attach the land occupied by him and make such arrangements as the Deputy Commissioner may consider suitable for liquidating the debt. Ben. Act 1 of 1895.

Recovery of contributions from co-sharer tenants.

**249.** When a Mundari khunt-kattidar has paid the rent of his tenancy, including portions thereof due from his co-sharers or any of them, the said portions may, if the proportions due by such co-sharers are definitely stated in a record-of-rights prepared under this Act or under any law in force before the commencement of this Act, be recovered by him, with interest, under the procedure provided by section 244, as if they were an arrear of rent due to a landlord.

Entry of Mundari khunt-kattidari tenancies in record-of-rights.

**250.** All Mundari khunt-kattidari tenancies shall be so described in any record-of-rights prepared under Chapter XII.

(*Sections 251—258*)

Bar to suits under section 87.

**251.** No suit shall be entertained under section 87 for the decision of any dispute regarding any entry relating to a Mundari khunt-kattidari tenancy in a record-of-rights.

Decision of disputes regarding entries or omissions in record-of rights.

**252.** (*1*) At any time within three months from the date of the certificate of the final publication of the record-of-rights under this Act, or under any law in force before the commencement of this Act, a suit may be instituted before a Revenue-officer, for the decision of any dispute regarding any entry of a Mundari khunt-kattidari tenancy or the incidents thereof in the record, or regarding any omission to enter such a tenancy or any incident thereof in the record; and the Revenue-officer shall hear and decide the dispute.

(*2*) In all such suits the Revenue-officer shall, subject to any rules made in this behalf under section 264, adopt the procedure laid down in Chapter XVI for the trial of suits before the Deputy Commissioner.

Appeal against such decisions.

**253.** An appeal shall lie, in the prescribed manner and to the prescribed officer, from any decision of a Revenue-officer under section 252.

Entry of decision in record-of-rights.

**254.** Whenever a suit instituted under section 252 has been finally decided, a note of the decision shall be made in the record-of-rights, as finally published, by the Revenue-officer referred to in that section; and such note shall be considered as part of the record.

In preparing record-of-rights, judgments, etc., in suits not to be taken as evidence that tenancies are or are not Mundari khunt-kattidari tenancies.

**255.** When an order has been issued under section 80 of this Act, or under section 101 of the Bengal Tenancy Act, 1885, in respect of any local area, estate, tenure or part thereof, no judgment, decree or order in any suit instituted thereafter shall be taken as evidence, VIII of 1885.

in any inquiry made by a Revenue-officer engaged in the preparation of a record-of-rights for such area, estate, tenure or part, under Chapter XII of this Act, or under Chapter X of the said Bengal Tenancy Act, 1885, VIII of 1885.

respecting any claim that any tenancy within that area, estate, tenure or part is or is not a Mundari khunt-kattidari tenancy.

Record-of-rights to be conclusive evidence on the question whether a tenancy is a Mundari khunt-kattidari tenancy.

**256.** When a record-of-rights has been finally published under section 83 of this Act, or under sub-section (*2*) of section 103A of the Bengal Tenancy Act, 1885, or amended under section 254 of this Act, VIII of 1885.

the entries therein relating to Mundari khunt-kattidari tenancies shall be conclusive evidence of the nature and incidents of such tenancies and of all particulars recorded in such entries;

and, if any tenancy in the area, estate or tenure for which the record-of-rights was prepared has not been recorded therein as a Mundari khunt-kattidari tenancy, no evidence shall be received in any Court to show that such tenancy is a Mundari khunt-kattidari tenancy.

## CHAPTER XIX.

### SUPPLEMENTAL PROVISIONS.

*Joint-landlords.*

Joint-landlords.

**257.** When two or more persons are joint-landlords, anything which a landlord is, under this Act, required or authorized to do must be done by both or all those persons acting together, or by an agent authorized to act on behalf of both or all of them.

*Bar to suits.*

Bar to suits in certain cases.

**258.** Save as expressly provided in this Act, no suit shall be entertained in any Court to vary, modify or set aside, either directly or indirectly, any order or decree of any Deputy Commissioner or Revenue-officer in any suit or proceeding under section 29, section 32, section 35, section 42, section 46, sub-section (*4*), section 49, section 50, section 54, section 61, section 63, section 65, section 72, section 75, section 85, section 86, section 87, section 89, section 90 or section 91 (proviso), or under Chapter XIII, XIV, XV, XVI or XVIII, except on the ground of fraud or want of jurisdiction.

(*Sections 259—264.*)

*Process.*

Mode of service.

**259.** Every notice, summons or other process under this Act required to be served on any person shall be served in the prescribed manner.

Authentication, and payment of costs.

**260.** Every process issued by a Deputy Commissioner or Revenue-officer under this Act shall bear his seal and signature; and the cost of serving the same shall be paid by such person and in such manner as may be prescribed.

*Costs.*

Cost in suits and applications.

**261.** The provisions of Chapter XVIII of the Code of Civil Procedure shall apply to all suits and applications under this Act. XIV of 1882.

Deposit of costs of proceedings to be incurred by the Government.

**262.** (*1*) A Revenue-officer or Deputy Commissioner may, subject to any directions given by the Local Government, require any plaintiff or applicant to deposit in advance the whole or any part of the estimated amount of the expenses to be incurred by the Government in any proceedings under this Act.

(*2*) If the amount so deposited by any person exceeds the sum finally made payable by him as costs, the excess shall be refunded to him when the proceedings are completed.

*Production of Witnesses and Documents.*

Production of witnesses and documents.

**263.** For the purposes of any inquiry under this Act, any Deputy Commissioner or Revenue-officer shall have power to summon and enforce the attendance of witnesses and compel the production of documents in the same manner as is provided in the case of a Court by the Code of Civil Procedure. XIV of 188

*Rules and Notifications.*

Power to make rules to carry out objects of Act.

**264.** (*1*) The Local Government may make rules to carry out the objects of this Act.

(*2*) In particular, and without prejudice to the generality of sub-section (*1*), the Local Government may make rules—

(*i*) to prescribe particulars to be specified, in pursuance of clause (*a*) of section 28, in applications for the enhancement of the rent of occupancy holdings;

(*ii*) to limit the enhancement of the rent of occupancy holdings under section 29;

(*iii*) to prescribe particulars to be specified, in pursuance of clause (*j*) of section 31, in applications for increase of rent in respect of increase in the area of land held by occupancy-raiyats;

(*iv*) to prescribe particulars to be specified, in pursuance of clause (*h*) of section 34, in applications for the reduction of rent paid by occupancy-raiyats;

(*v*) to prescribe the manner in which the possession of land should be given under section 46, sub-section (*4*), section 50, sub-section (*2*), section 71 or section 73, sub-section (*3*);

(*vi*) to prescribe the manner in which landlords shall send notices to the Deputy Commissioner under section 73, sub-section (*2*).

(*vii*) to prescribe the manner in which rents shall be settled under section 85;

(*viii*) to prescribe the officer to whom and the manner in which appeals shall lie from orders or decisions passed by Revenue-officers under section 61, section 85, section 87, section 89, Chapter XIII, Chapter XIV, Chapter XV or section 252;

(*Section 264.*)

(*ix*) to regulate the transfer of cases to Civil Courts under the first proviso to section 87 ;

(*x*) to prescribe the manner in which records-of-rights shall be revised in pursuance of a direction given under section 98 ;

(*xi*) to declare the restrictions or modifications (if any) subject to which the provisions of Chapter XII shall apply to the revision of records-of-rights or the settlement of rents in pursuance of a direction given under section 98 ;

(*xii*) to prescribe particulars to be contained in a record prepared under section 103;

(*xiii*) to prescribe the form of statements to be prepared under section 111, clause (*1*) ;

(*xiv*) to prescribe the manner in which copies of entries in records prepared under Chapter XV shall be served under section 129;

(*xv*) to regulate the exercise of the right conferred by section 140 to bring collective suits or make collective applications;

(*xvi*) to prescribe the Court by which decrees or orders passed by a Deputy Commissioner under this Act may be executed ;

(*xvii*) to prescribe the form of applications for the execution of decrees or orders passed by a Deputy Commissioner under this Act;

(*xviii*) to prescribe the manner of executing decrees or orders referred to in section 195 ;

(*xix*) to prescribe the manner of dealing with sale-proceeds under section 205, sub-section (*2*) ;

(*xx*) to prescribe the manner of service of notices, summonses and other processes, and of publication of notices, issued under this Act ;

(*xxi*) to declare by what person and in what manner the cost of serving processes issued by a Deputy Commissioner or a Revenue-officer under this Act shall be paid ;

(*xxii*) to regulate the procedure to be followed by Revenue-officers in the discharge of any duty imposed upon them by or under this Act, and may, by such rules, confer upon any such officer—

(*a*) any power exercised by a Civil Court in the trial of suits ;

(*b*) power to enter upon any land, and to survey, demarcate and make a map of the same, and any power exercisable by any officer under the Bengal Survey Act, 1875 ; and Ben. Act V 1875.

(*c*) power to cut and thresh the crops on any land and weigh the produce, with a view to estimating the capabilities of the soil ;

(*xxiii*) to prescribe the forms to be used under this Act ;

(*xxiv*) to prescribe the procedure to be followed and the information to be given by any party or applicant in any proceeding under this Act.

(*Sections 265—270.*)

Power to make rules as to procedure, and application of the Code of Civil Procedure.

**265.** (*1*) The Local Government may, with the previous sanction of the Government of India, make rules for regulating the procedure of the Deputy Commissioner in matters under this Act for which a procedure is not provided hereby; and may, by any such rule, direct that any provisions of the Code of Civil Procedure shall apply, with or without modification, to all or any classes of cases before the Deputy Commissioner. XIV of 1882.

(*2*) When any provision of the said Code is applied by such rules, the rules may further declare that any provision of this Act which is superseded by, or is inconsistent with, any provision so applied shall be deemed to be repealed.

(*3*) Until rules are made under sub-section (*1*), and subject those rules when made and to the other provisions of this Act, the provisions of the Code of Civil Procedure relating to—

(*a*) the substitution and addition of parties,
(*b*) the amendment of plaints,
(*c*) the production of documents,
(*d*) the attendance, remuneration, punishment and examination of witnesses,
(*e*) the amendment of decrees,
(*f*) commissions to examine witnesses,
(*g*) commissions for local investigations,
(*h*) attachment before judgment,
(*j*) arbitration, and
(*k*) review of judgment

shall, so far as may be, and in so far as they are not inconsistent with this Act, apply to all suits, appeals and proceedings before the Deputy Commissioner under this Act, and to all appeals from decisions passed in such suits or proceedings.

Publication of rules in draft.

**266.** (*1*) All powers conferred by this Act for making rules are subject to the condition that the rules be made after previous publication.

(*2*) Sub-section (*1*) shall not apply to any rules made and published in the Calcutta Gazette within a period of two months from the commencement of this Act; but all rules so made and published shall be re-issued, after previous publication, and with such amendments (if any) as the Local Government may consider necessary, within a period of one year from such commencement.

Publication and effect of rules and notifications.

**267.** All rules made, and notifications issued, under this Act shall be published in the Calcutta Gazette, and on such publication shall have effect as if enacted in this Act.

*Recovery of Dues.*

Recovery of dues.

**268.** (*1*) Costs and interest awarded under this Act in rent suits, and damages awarded under section 175, shall be recoverable as if they were arrears of rent.

(*2*) All costs, interest and damages not referred to in sub-section (*1*), and all compensation, fines and penalties, awarded or imposed under this Act, shall be recoverable in the manner provided in Chapter XVI for the recovery of money (not being arrears of rent) due under decree.

*Powers.*

Transfer of cases from one Revenue-officer to another.

**269.** A Revenue-officer may at any time transfer any pending suit, application or proceeding under this Act from the file of any Revenue-officer acting under this Act to the file of any other Revenue-officer so acting who is duly authorized to entertain and decide such suit, application or proceeding.

Control over Deputy Commissioners and Deputy Collectors.

**270.** In the performance of their duties and the exercise of their powers under this Act, Deputy Commissioners shall be subject to the general direction and control of the Commissioner and the Board, and Deputy Collectors exercising functions of the Deputy Commissioner shall also be subject to the direction and control of the Deputy Commissioner.

*Section 271.—Schedules A and B).*

*Saving of Special Enactments.*

of special ...ts. **271.** Nothing in this Act shall affect—

(*a*) the powers and duties of Settlement-officers as defined by any law not expressly repealed by this Act; or

(*b*) any other special or local law not repealed, either expressly or by necessary implication, by this Act.

## SCHEDULE A.

ACTS AND NOTIFICATION REPEALED IN THE CHOTA NAGPUR DIVISION, EXCEPT THE DISTRICT OF MANBHUM.

[*See section* 2(*1*).]

*Acts of the Bengal Council.*

| 1 | 2 |
|---|---|
| No. and year. | Short title. |
| I of 1879 ... | The Chota Nagpur Landlord and Tenant Procedure Act. |
| IV of 1897 ... | The Chota Nagpur Commutation Act, 1897. |
| V of 1903 ... | The Chota Nagpur Tenancy (Amendment) Act, 1903. |
| V of 1905 ... | The Chota Nagpur Tenancy (Amendment) Act, 1905. |
| VIII of 1879 ... | The Bengal Rent Settlement Act, 1879. |

*Notification.*

Notification No. 1379L.R., dated the 5th March, 1908, published in the Calcutta Gazette of the 11th idem, Part I, page 631, and in the Gazette of India of the 21st idem, Part I, page 214.

## SCHEDULE B.

ACTS PROSPECTIVELY REPEALED IN THE DISTRICT OF MANBHUM.

[*See section* 2(*2*).]

| 1 | 2 |
|---|---|
| No. and year. | Short title. |
| *Act of the Governor General of India in Council.* | |
| X of 1859 ... | The Bengal Rent Act, 1859. |
| *Acts of the Bengal Council.* | |
| VI of 1862 ... | The Bengal Rent Act, 1862. |
| IV of 1867 ... | The Bengal Rent (Appeals) Act, 1867. |
| VIII of 1879 ... | The Bengal Rent Settlement Act, 1879. |

F. G. WIGLEY,

*Secretary to the Bengal Council.*

CALCUTTA;
*10th November, 1908.*